

CONDUCT OF LOCAL ELECTIONS

(ENGLAND and WALES)

COUNTY • MUNICIPAL • DISTRICT • PARISH

FIFTH EDITION

**THE LABOUR PARTY
SMITH SQUARE
LONDON
S.W.1**

Price : One Shilling and Sixpence

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The text of this booklet is based on the governing statutes R.P.A. 1949, and L.G.A. 1933, and the statutory Local Election Rules. The booklet is intended as an outline guide for the use of Candidates and Election Agents

THE LABOUR PARTY
SMITH SQUARE
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FIFTH EDITION — 1952

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CONDUCT OF LONDON LOCAL ELECTIONS

CONDUCT OF LOCAL ELECTIONS

(ENGLAND and WALES)

MANAGEMENT

Success for Labour in local elections depends on :

- (1) A challenging policy on its own programme.
- (2) A planned campaign.
- (3) A canvass and a polling day organisation.

The aim of the first two efforts is to stimulate interest and to give the electors a disposition to vote, but it is the third effort which gets the vote polled. All experienced organisers are agreed that it is the doorstep canvass which provides the means of getting Labour votes into the ballot box for the candidate.

The unwillingness of members to canvass is often alleged as an excuse for default in this effort, but the truth is the idea of canvassing is made too difficult and members are scared of it. Let it be made clear that members can go in pairs to the doors and regard their visits as simple calls on the electors to find where the Labour supporters are. Their slogans can be—Be polite; Do not argue; Get on.

Canvassing to-day is not trying to convert people, but getting the simple information as to where the possible Labour vote is.

The electoral value is profoundly important. Labour electors are human and susceptible to the sense of fellowship. The personal call is a courtesy to electors, it makes them feel the party and the candidate are interested in them. It puts them in the mood to vote. It creates the sense that the party is alive and concerns itself with the people. It makes people desire to vote for Labour.

The organisational value is supreme. It is the pivotal work of the election. It gives the information as to the distribution and extent of the possible Labour vote. It reveals where we have to go to pull out electors on polling day. Without a canvass the candidate and the party work blindly and fruitlessly on polling day, because the electorate are uncharted and much of the possible vote is left unpolled.

Cost of Local Elections

The question of the costs of a local election frequently arises as a problem of electioneering.

At the present time when costs are abnormal it is not easy to suggest a general estimate suitable for all parties or circumstances. The following allocation is a rough basis on which some approximation of costs for a candidature can be made, involving £50 for an electorate of 5-6,000.

An estimate on such a cost might run as follows :

	£	s.	d.
6,000 addresses	20	0	0
6,000 poll cards	8	10	0
6,000 leaflets and circulars	7	0	0
Window cards (2,000)	7	10	0
Advertising	4	0	0
Miscellaneous, schools, committee rooms	5	0	0
	£52	0	0

These figures are, of course, subject to much variation, but the general allocations are typical of what is required. Envelopes are usually dispensed with and the literature provided with a panel for the addresses of the electors; often a poll card form is inserted on the back page of address, thus eliminating separate poll cards. Others design the address to act as a window bill as well.

It is useless to expect to win local elections without an adequate expenditure of money, and the opinions of many parties on this matter need to be revised. If a few pounds per ward is allocated for elections year after year and practically no progress is made in the total of successes, is it not probable that the contests are far too limited in character, and that an amount of money commensurate with the necessities of a properly organised election is required?

Election Fund

Ward committees ought to build up a local election fund beforehand, and at the time of election they should make appeals for money. Money can be got during the actual election if the organisers are courageous to ask for it from electors. Having to raise money after the election to clear expenses is a weary business. Do it while the election is on. (See page 37 *re* Subscriptions).

Estimate of Vote

The conduct of a local election contest should be faced in a considered and practical manner. It is not sufficient merely to go into a fight and do one's best. An estimate of the vote required for a definite win should be made, and the canvassing should be prosecuted until sufficient promises are secured to guarantee success.

A practical illustration may be helpful:

In a ward in a borough where a very strong and popular opponent was contesting, the Labour organiser calculated that a vote of 1,500 would require to be reached to be sure of winning the seat. A vigorous contest with much mass canvassing and street meetings was carried through. The helpers in the ward were encouraged to canvass assiduously and the visiting of the doubtfuls was repeated again and again until the total of promises in the committee room nearly reached 1,900. On polling day the helpers worked to exhaustion in combing the streets to get people to poll. The final result was: Labour, 1,387 votes; opponent, 1,321 votes. Without this considered and calculated effort the seat would not have been gained.

It is very necessary that organisers should give attention to this question of working to an objective in an election.

Policy

The policy for the election should be discussed by the executive in consultation with the Labour councillors and the candidates. There should be very careful consideration of the issues to be placed before the electors and there should be a clear understanding on the problems and the policy so that a clear cut and practical programme can be propagated during the contest.

Topical Issues

A frequent weakness in municipal and local electioneering is the lack of precise knowledge of local affairs shown on the platform and in election literature.

This weakness can be overcome by a little preparatory instruction. Before the election is due, one or two of the Labour councillors (or if none, some members who know something of local affairs) should be asked each to give a lecturette on local rates, local housing, local public health, or any local topical issue to a meeting of candidates, intending speakers and helpers.

It is important to press upon the lecturer the necessity of giving facts which can be used advantageously by the speakers. Make it clear that he is not being asked to give a speech on "housing"—he has to tell the members The Story They Must Tell the Electors.

A blackboard should be provided and the lecturer should write on it the salient facts and figures. The members will take notes and question the councillor.

Three such lecturettes can be arranged for one evening. It will be realised that at the close all the speakers will be in a position to talk definitely on two or three local questions. Where this has been done the results have been most gratifying.

A special informative leaflet with panels on local affairs can be issued to the electors with advantage.

Election Address

It is usual to have a portion of each candidate's address common to all the candidates, and for each to have one page for a personal letter to the electors.

Where several candidates are running, a common preface on party policy in reference to public matters is inserted, and the several candidates either sign a personal appeal or each addresses a short note to the electors for his own electoral area.

The address should be a topical one and deal with local problems. Avoid any reference to the personal life of your opponent, as this may lead to costly litigation for libel.

The style and format of the address should be considered carefully. There is a great variety, from the facsimile typewritten letter on notepaper to the elaborate, illustrated and coloured address. It is a little surprising that the stereotyped four-page quarto address is so continuously issued year after year when the resources of the printer's craft are so various and reasonable.

An address with side folders can be made into a very tasteful production.

Printing

Care must be taken to choose T.U. printing firms for this work. It is good business to share the work among various local firms, not excluding opposition newspapers. Secure estimates especially for the address, poll cards, and window cards. Get copy to the printers as soon as possible and be secure against rush work or overtime charges.

It is a great advantage to an agent to be on good terms with the foreman printer of an establishment. Friendly relations and regard for the foreman's pride of craft will often secure most excellent productions.

Purchase Tax

Parties should take an early opportunity of ascertaining that their printers are aware of the non-liability of Purchase Tax on ordinary election addresses and poll cards.

Leaflets

Let these be simple with one or two telling points. Don't be satisfied with the first draft. Touch it up, make it pithy.

The Candidate

A candidate in a local election must make himself known to the electors in his ward or district. It is desirable that he should visit as many voters as possible and especially in those areas where his support lies.

Such visiting of electors can be done rapidly, and a candidate generally finds the experience a pleasant one, as he is received courteously at most houses, whether

of supporters or opponents. He should be accompanied by one or two prominent members of the ward or party committees, who usually introduce him to the occupiers. A small card, such as the following, can be used on the visits :

<p>COUNCIL ELECTION WARD Polling Day (date)</p>	<p>Photo</p>
<p>Mr. Robert Wrightman, the Labour candidate, invites you and your family or friends to attend his meetings, at which he will explain his views and policy and answer any questions.</p> <p>Thanking you for any support you can give him.</p> <p style="text-align: center;">(Imprint)</p>	

Suitable bills or leaflets may be left at each house for perusal.

Election Agent

The office of election agent in local elections (except for Parish) is now a statutory one and he is held responsible for the legal conduct of his candidate's election.

It is, therefore, important that the person appointed should be a responsible person for only he can enter into contracts for the printing of election material, hiring halls, or committee rooms, or expending any monies in the conduct of the election.

He should carry through the election in an orderly and methodical manner, and be scrupulous over details of finances and the general management of the election.

Election Campaign

The conduct and organisation of local elections is in general carried out on the same lines as those for a parliamentary election. The agent will, therefore, make his arrangements upon a similar though less ample plan, following in general the same routine.

About eight or nine days is usually considered as the most useful period for public election work in a local contest. Public interest cannot be awakened much before a week from the poll. The prior time should be spent in thorough preparation of the organisation and getting ready for the public contest.

First Duties

Get photo block of the candidate made for the address, and a small one for varied use.

Attend to the preparation and printing of candidate's address and any special leaflets.

Get the address in hand as quickly as possible. There is generally a tendency to procrastinate : but lateness often spoils a contest.

Start the addressing, if envelopes are to be used; choose a size for easy folding of the address.

Secure copies of the Register.

Complete and check three nomination papers. On no account trust to one nomination paper.

Get candidate's written consent to nomination. When filling in statement include the "12 months prior residence" qualification whenever possible.

Prepare candidate's application for extension of polling hours (see page 26).

Issue collecting cards for funds.

Follow-on Duties

Book committee rooms. Arrange for meetings. Prepare poll cards.

Draft and order posters and leaflets. Meet election workers.

Arrange for early delivery of nomination papers to Returning Officer.

Distribute addresses and poll cards to voters. Organise canvass of electors.

Organise mass canvassing and street meetings. Appoint personation and counting agents.

Prepare for polling day organisation: cars, messengers, checkers, helpers for fetching up, material for committee rooms.

Addressing and Filling

The organisation of this work must be precise and orderly, or confusion will arise. Someone must be in definite charge of the work. Record sheets must be prepared beforehand, and the Register which is to be split up into sheets for the writers should be first boldly numbered with coloured crayon, and a different colour should be used for each polling district.

For home writers, bundles of addresses or envelopes and pages of the Register should be prepared, and an accurate check kept of this outside work so that no duplication of effort occurs.

As well as the name and address of the elector, the poll letter and number might be put on the envelope. Give clear instructions to writers.

The folding and filling arrangements must be orderly. Someone must keep an eye on the supplies for the tables or homefillers. The completed lots must be tied up in suitable bundles for delivery.

If poll cards are used, the insertion of these must be a separate and special job. The appropriate card must be put in the same numbered envelope, and frequent checking must be kept up through the task. Wretched confusion has arisen in elections through mistakes over poll cards.

Meetings

Indoor meetings should be carefully organised and well advertised. The date should be fixed with relation to getting press reports.

Personal canvassing with leaflets should be part of the organisation of a meeting. It cannot be expected that leaflets convening a meeting will of themselves bring adequate attendance. Interest must be aroused. Too many local election meetings are thinly attended. Display a poster at the entrance to the hall beforehand.

Committee Rooms

Endeavour to secure a committee room near to each polling station, especially for polling day itself. The outside and inside of committee rooms should be made bright and orderly. An attractive display of posters and bills should be arranged for, if possible.

Canvass. (See also pages 1 and 2.)

Canvass cards or pasted register cards must be prepared beforehand.

The canvass is the most essential and important work of the election. The election clerk must know where his Labour supporters are, so that on election day they can be polled.

If 1,200 votes are needed for a win, then obviously the task is set. An attempt must be made to secure about 1,800 promises. Then the workers can concentrate on these promises on polling day.

Talk plainly to the election workers. Tell them they have only to go in pairs to houses and hand in a leaflet and invite the people to read the candidate's address or come to his meetings. This, coupled with a remark that it is hoped the people will give their support to Labour, will produce an indication of sentiments of the voter that will enable the canvass card to be marked. Of course, the canvassers will make some errors, but they will collect a substantial record of "favourables," which makes the task for polling day surer and potent for mobilising the best available vote, which may mean victory. If this canvass is not done, then everybody in the election is merely working blindly at the electorate and hoping for the best, which does not usually come.

Mass Canvass or Street Meetings

Mass canvassing is really an intimate form of street meeting. It is appropriate and effective in some districts, creating interest and building up the vote.

A group of helpers go into a street and call at the houses and invite the women to come to their doors to hear the candidate or a speaker. Ringing a handbell is useful in arousing attention. The candidate or speaker in a very few words reminds the people of the date of the election, and asks them to vote for Labour. Invariably, the women come to the doors or listen behind the windows. Meanwhile, leaflets are distributed.

Mass canvassing in the evening has been tried and found useful. People listen behind the curtains, and the reminder of the election and the date stimulates interest and talk about Labour.

Poll cards are permissible in Local Elections.

A POLL CARD FOR LOCAL ELECTIONS

<i>COUNCIL ELECTION (DATE)</i>					
<u>WHEN TO VOTE</u>	<u>HOW TO VOTE</u>				
<i>MONDAY (DATE)</i> 8 a.m. to (8) (9) p.m.	Kindly put a cross opposite the Labour Candidate's name, thus :				
<i>Your Poll No. is:</i> K 894	<table border="1"><tr><td>APLIN</td><td></td></tr><tr><td>GOODMAN</td><td>X</td></tr></table>	APLIN		GOODMAN	X
APLIN					
GOODMAN	X				
<u>WHERE TO VOTE</u>	<i>After you have voted it will save your being canvassed if you kindly give your number to the representative at the gate of the Polling Station.</i>				
<i>You vote at</i> COUNCIL SCHOOL, ASH WALK, NORTHTON.	<i>The Ballot is secret and your number does not indicate how you vote.</i>				
	Imprint				

Polling Day

Before polling day, the committee room clerk should have got all "favourables" canvass cards in street order in boxes. If pasted register cards have been used for canvassing, all the "favourables" should have been entered on small promise cards with polling number; this makes a simple and most effective system for polling day and does away with wall sheets.

In either case there are the cards of supporters. As the runners bring in information as to the polling, the polled "favourables" are withdrawn from the boxes and put aside. Every effort must be made to poll all these supporters, and helpers will be given cards to "knock up" during the day.

In the evening, all helpers will be asked to use every pressure to get out the remaining "favourables." *It is by this polling day system that a Labour vote is fully mobilised for a candidate.* If there is no such system the helpers are rushing hither and thither, and much of their toil is of small avail when they don't know where the actual favourables are.

The committee room clerk and his first rota of helpers must be in attendance early. The checkers must be at the polling stations and messengers ready.

Agency

Under election law a candidate is held liable for the acts of his agents even though he may not have authorised or desired such acts.

All paid clerks, polling agents and messengers would be agents in law and also all helpers (canvassers, etc.) expressly authorised or appointed by him with respect to the conduct of the election.

The question of agency in the case of persons not so authorised or appointed would be a matter of fact and law dependent on the particular circumstances.

The candidate should, therefore, see that at the commencement of the election all helpers are instructed as to their responsibility in law and warned that any illegal or corrupt practices may have disastrous consequences.

JUDGE CHANNEL ON "AGENCY": "One thing which is clear is, that the ablest judges have always said that you cannot lay down definite rules applicable to all cases. But there are principles, and the substance of the principle of agency is, that if a man is employed at an election to get you votes, or if, although neither employed nor authorised, he does to your knowledge get you votes and you accept what he has done and adopt it, then he becomes a person for whose acts you are responsible in the sense that if his acts have been of an illegal character you cannot retain the benefit which those illegal acts have helped to procure for you." (Great Yarmouth, 1906).

Candidate can Officiate

Rule 26(7), 2nd Schedule, R.P.A. 1949. A candidate may himself do any act or thing which any polling or counting agent of his, if appointed, would have been authorised to do, or may assist his agent in doing any such act or thing.

Free Copy of Register

The R.O. shall on request supply one copy of the register for any electoral area to each candidate or his election agent, at a local election for that area. Reg. 18.

ELECTION INSURANCES

Paid Helpers

A candidate should not fail to insure at once any paid helpers in his election, to indemnify himself against any liability under the Employers' Liability Act, Workmen's Compensation Acts, Fatal Accidents Act or at Common law in respect of persons employed.

Cars and Vehicles Lent for Conveyance of Voters to and from the Poll

The candidate and election agent may insure against liability of injury to the public and property and also against liability for any passengers, though it is held that voters accepting free rides have ordinarily no claim, but it is wise to have them insured to avoid much outcry if an accident occurred.

It may be observed that though the lender's insurances may cover some or all of the above risks to the public, there is always a possibility that a candidate and agent may be cited and legal costs would be involved, so it is wise to insure against these risks.

Such insurance is purely a personal safeguard for the candidate and agent, and is of no avail for the lender who is bound to insure himself against all legal risks.

Cars used in the Management of the Election

The candidate and agent should take out an insurance to cover themselves against liability for injury to the public and property and passengers.

The amount of the premiums can be included in the Election Returns.

The Co-operative Insurance Society Ltd., 109 Corporation Street, Manchester, 4 (or their local agent), quote modest premiums for cover of employees and for cars.

APPOINTMENT OF ELECTION AGENT

(Except for Parish Elections)

R.P.A. 1949 Sections 55, 57

On or before the latest time for the delivery of notices of withdrawal for candidatures, a person shall be named by, or on behalf of, each candidate as his election agent, and the name and address and place of office shall be declared in writing to the clerk of the authority for which the election is held.

The notice of appointment of the election agent should be sent in early. The office can be situate within any part of the local government area as may be convenient.

A candidate may name himself as his election agent and in the event of a candidate failing to appoint either himself or another person within the specified time, he will be deemed to have appointed himself.

NOTES

Although there is this provision for the appointment of the candidate as his own election agent, it is unwise to use it.

In a local government area divided into wards, the candidate for each ward can appoint the same election agent, without making his candidature joint with candidates contesting other wards.

Each "ward" or "electoral division" contest is a separate election. Joint candidatures ensue where in a particular ward or electoral division the candidates employ or use the same election agent, and committee rooms, etc.

NOTIFICATION OF APPOINTMENT OF AGENT TO THE R.O.

Form

Election of Councillor for the West Ward of the Borough of Manton.

I, *Florence Jane Hemming*, of *6 Bayswater Road, Manton*, a candidate at the above-mentioned election, do hereby give you notice that pursuant to the provisions of the Representation of the People Act 1949, Sec. 55 and 57, I have appointed *Alfred Markham*, of *16 Laurre Road, Manton*, to be my election agent for the said election; and that the address of this office or place to which all claims, notices writs, summons, and documents with regard to the said election, addressed to the said *Alfred Markham* may be sent is *48 Main Street, Manton, Middlesex*.

Dated this.....day of.....

(Signed)

To the Returning Officer.

Notice for Newspapers

Sometimes it is thought prudent to insert a notice in a local newspaper or news-sheet announcing the name of the candidate's Election Agent and place of office, with the intimation that all contracts and payments on account of the conduct of the election must be made with or through the said election agent or on his written authority.

Agreement between Candidate and Agent

An agreement as to the appointment, service, period, and remuneration if any, should be signed by the candidate and agent as a record.

STANDING FOR ELECTION

Qualification for Councillor for Local Elections

The Local Government Act, 1933, applies for local elections.

Sec. 57. A person shall, unless disqualified by virtue of this Act or any other enactment, be qualified to be elected and to be a member of a local authority if he is of full age and a British subject (including citizen of the Republic of Ireland (B.N.A. 1948)), and—

- (a) he is a local government elector for the area of the local authority; or
- (b) he owns freehold or leasehold land within the area of the local authority; or
- (c) he has during the whole of the 12 months preceding the day of election resided in the area of the local authority; or,
- (d) in the case of a member of a parish council, he has either during the whole of the 12 months preceding the day of election or since March 25th in the year preceding the year of election resided either in the parish or within three miles thereof.

NOTES

Any single one of the three qualifications of itself entitles for any Council, including Parish Councils.

- (a) Name on the local government register.
- (b) Owning land.
- (c) 'Twelve months' ordinary residence.

Full age is attained on the day preceding the 21st birthday.

"Land" is held to include premises on the land and vice versa, premises include the land on which they stand. An "interest" in land may be interpreted as ownership under Sec. 57 (b), thus the owner or tenant of any premises may be said to have an interest in the land underneath and could qualify.

It may be held that a person whose twelve months' residence is not completed by the last nomination day could stand for election if his qualification will be complete preceding the day of election. In other cases it would be held that a person should be qualified at nomination.

In the case of the twelve months' qualification, it is immaterial whether the residence continues after election or not, the entitlement to sit and act as councillor persists. This qualification completes itself before election and sustains office for whole tenure available.

In the case of the register qualification and the ownership of land qualification, the qualification must continue, otherwise the councillor is not entitled to remain a member of the council.

Disqualification for Councillor

Sec. 59 (1). Subject to the provisions of this Section, a person shall be disqualified for being elected or being a member of a local authority if he—

- (a) holds any paid office or other place of profit (other than that of mayor, chairman or sheriff) in the gift or disposal of the local authority or of any committee thereof; or.
 - (b) is a person who has been *adjudged bankrupt*, or made a composition or arrangement with his creditors; or
 - (c) has within five years before the day of election or since his election been *surcharged* to an amount exceeding £500 by a district auditor; or
 - (d) has within five years before the day of election or since his election been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any offence and ordered to be imprisoned for a period of not less than three months without the option of a fine; or
 - (e) is disqualified for being elected or for being a member of that authority under any enactment relating to *corrupt or illegal practices*; or
 - (f) in the case of the council of a borough, is an *elective auditor* of the borough;
- or

Provided that:—

- (i) (County R.O. shall not be disqualified for C.C. unless he has received profit from his office);
- (ii) the disqualification attaching to a person by reason of his having been adjudged bankrupt shall cease:—
 - (a) if the bankruptcy is annulled either on the ground that he ought not to have been adjudged bankrupt, or that his debts have been paid in full, on the date of the annulment; or
 - (b) if he is discharged with a certificate that the bankruptcy was caused by misfortune without any misconduct on his part, on the date of his discharge; or
 - (c) in any other case, on the expiration of five years from the date of his discharge;

(iii) the disqualification attaching to a person by reason of his having made a composition or arrangement with his creditors shall cease :—

(a) if he pays his debts in full, on the date on which the payment is completed; or

(b) in any other case, on the expiration of five years from the date on which the terms of the deed of composition or arrangement are fulfilled;

(iv) for the purposes of paragraphs (d) and (e) of this sub-section, the ordinary date on which the period allowed for making an appeal or application with respect to the surcharge or conviction expires or, if such an appeal is made, the date on which the appeal or application is finally disposed of or abandoned or fails by reason of the non-prosecution thereof shall be deemed to be the date of the surcharge or conviction, as the case may be.

NOTES

" Holds any paid office " is to be interpreted as including any employee of the particular Council.

Apart from these provisions, there is no legal provision on which to require the resignation of a councillor who has committed an offence which may be thought to discredit him as a public representative. In such cases the only procedure available is to call for his resignation by a party or on behalf of a body of his electors. Care must be taken not to make statements which could be interpreted in law as slanderous. The councillor is not bound to resign, but ordinarily such experience of the loss of public confidence would have some effect.

The provisions of the 1933 L.G. Act relating to disqualification of persons in receipt of Poor Law Relief within 12 months of election have been repealed by the National Assistance Act, 1948.

Sec. 59 (2). *A paid officer of a local authority who is employed under the direction of a committee or sub-committee of the authority, any member of which is appointed on the nomination of some other local authority, shall be disqualified for being elected or being a member of that other local authority.*

This sub-section shall not operate so as to disqualify any person for being elected to or being a member of the council of a county district by reason of his being a teacher or holding any other office in a school or college which is maintained by a local education authority. (Ed. Act, 1946, Sec. 10(2)).

NOTES

In cases having to be considered under Sec. 59, sub-section 2, it is necessary to know what sort of Committee employs the persons :

- (1) a Joint Committee of direct representatives from various Councils. In this case any employee of the Committee would be debarred from standing for any of the constituent councils.
- (2) a corporate body having a separate independent existence. In this case any employee of the Committee would not be debarred from standing for any constituent council.
- (3) *ad hoc* or a statutory Committee, especially where there are independent powers of precepting. In these cases employees might not be legally debarred from standing for the council or councils.
- (4) an ordinary Council Committee. In this case an employee is barred.

In cases of employment, facts as to which Council is the actual employer must be ascertained locally. Though a C.C. supplies money for wages this does not decide the issue. For instance, a local roadman would be the employee of the local Council if the C.C. had delegated highway powers to that local Authority, but if the local Council were acting as agents of the C.C. then the roadman would be the employee of the C.C.

In cases of doubt as to the eligibility or otherwise of teachers it is wise for the teacher to consult his or her Union as they have specialised legal opinion available on these issues.

Sec. 122.—Member of local authority is disqualified for being appointed to a paid office under the Council for twelve months after he ceases to be a member.

Legal Incapacities

Certain persons are disqualified :

- (a) Infants, aliens, idiots, lunatics, inmates of prisons.
- (b) Traitors, felons.
- (c) Persons guilty of corrupt and illegal practices at local elections.
- (d) Municipal officials, town clerks, treasurers, etc.
- (e) Officers of the Regular Forces.

44 and 45 Vict. c. 58, Sec. 146. 52 Vict. c. 3, Sec. 6.

Does not apply to auxiliary or volunteer forces (nor to County Councils).

NOTE ON COUNCILS.

Section 57 and the Sixth Schedule of R.P.A. 1948 are unrepealed, so any references to the 1948 Act on pages 12, 13, 14 remain in effect.

BOROUGH COUNCIL

Election

Sec. 23 (1), L.G.A., 1933.—The councillors of a borough shall be elected by the local government electors for the borough in manner provided by this Act.

(2) The term of office of the councillors of a borough shall be three years, and one-third of the whole number of councillors of the borough or of each ward thereof, as the case may be, being those who have been councillors for the longest time without re-election, shall retire in every year.

R.P.A., 1948 (6th Schedule).—The ordinary day of retirement of borough councillors shall take place on the fourth day after the day of election, and the newly elected councillors shall come into office on the said fourth day; and

The date of the annual meeting shall be the eleventh day after the day of election of borough councillors, or such other day within the following seven days as the borough council may fix.

Sec. 57, R.P.A. 1948.—The day of election shall be the same throughout England and Wales, and shall be fixed each year by the Secretary of State, and the announcement of the day will be made before the end of the preceding calendar year.

This day of election shall be a day in the week beginning with Sunday before the 9th day of May, or if the said ninth day is a Sunday, with that day.

Provided that if the said week is the week before Whit Sunday, the week ending on the Thursday before Whit Sunday shall be substituted therefor.

Sec. 24 (1), L.G.A., 1933.—Where a borough is not divided into wards, there shall be one election of councillors for the whole borough.

(2) Where a borough is divided into wards, there shall be a separate election of councillors for each ward.

Sec. 27, L.G.A., 1933.—The council of a borough may divide the borough or any ward thereof into polling districts, and may alter any polling district under provisions of Sec. 25.

COUNTY COUNCIL

Councillors

Sec. 8 (1), L.G.A., 1933.—The county councillors shall be elected by the local government electors for the county in manner provided by this Act.

(2) The term of office of county councillors shall be three years, and they shall retire together in every third year.

Triennial elections were held in 1952.

R.P.A., 1948 (6th Schedule).—The ordinary day of retirement of county councillors shall be the fourth day after the day of election, and the newly elected councillors shall come into office on the said fourth day; and

The date of the annual meeting shall be the eighth day after the day of retirement, or such other day within twenty-one days after the day of retirement as the county council may fix.

Election

Sec. 57 (2) R.P.A., 1948.—The day of election shall be a day in the week beginning with the Sunday before the ninth day of April or, if the said ninth day of April is a Sunday, with that day, and shall be such day in that week as the county council may, not later than the preceding twenty-fifth day of January, fix for that purpose.

Provided that if the said week is Easter week the week beginning with the Thursday in Easter week shall be substituted therefor, and if the said week is the week before Easter the week ending with the Wednesday in the week before Easter shall be substituted therefor.

Sec. 10, L.G.A., 1933.—For the purpose of the election of county councillors, every county shall be divided into electoral divisions, each returning one councillor, and there shall be a separate election for each electoral division.

Sec. 13, L.G.A., 1933.—The county council may divide an electoral division into polling districts, and may alter any polling district.

Persons entitled to vote, see page 45.

URBAN AND RURAL DISTRICT COUNCILS

U.D.C.

Sec. 31 (1), L.G.A., 1933.—For every urban district there shall be an urban district council consisting of the chairman and councillors, and the council shall have all such functions as are vested in the urban district council by this Act or otherwise.

R.D.C.

Sec. 32 (1), L.G.A., 1933.—Subject to the provisions of this Act, for every rural district there shall be a rural district council consisting of the chairman and councillors, and the council shall have all such functions as are vested in the rural district council by this Act or otherwise.

Election

Sec. 35 (2), L.G.A., 1933.—The councillors for each urban or rural district shall be elected by the local government electors for the district in manner provided by this Act.

(3) The term of office of district councillors shall be three years, and one-third, as near as may be, of the whole number of councillors of the district or, in the case of an urban district divided into wards, of each ward, being those who have been district councillors for the longest time without re-election, shall retire in every year on the twentieth day of May, and their places shall be filled by the newly elected councillors who shall come into office on that day.

(4) The County Council, on a resolution of a District Council passed by not less than two-thirds of the members voting, may order triennial elections.

Sec. 36 (1), L.G.A., 1933. Where an urban district is not divided into wards, there shall be one election of councillors for the whole district.

(2) Where an urban district is divided into wards, there shall be a separate election of councillors for each ward.

N.B.—Similar provisions for rural districts (Sec. 38(3) L.G.A. 1933).

Sec. 57 (3), R.P.A., 1948. The day of election shall be a day in the week beginning with the Sunday before the ninth day of May or, if the said ninth day is a Sunday, with that day.

Provided that if the said week is the week before Whit Sunday, the week ending on the Thursday before Whit Sunday shall be substituted therefor.

The day shall be such day as the county council may, not later than the end of the preceding February, fix for that purpose, after consultation with the district council concerned.

If default is made by a county council in fixing a day of election as required by this section, the day shall be the Tuesday in the week provided by this section.

Persons entitled to vote, see page 45.

PARISH COUNCILS

Sec. 48 (1), L.G.A., 1933. A parish council shall consist of the chairman and parish councillors, and shall have all such functions as are vested in the council by this Act or otherwise.

Sec. 50 (1), L.G.A., 1933. The number of parish councillors for each parish, or group of parishes, shall be such number, not being less than five nor more than 15, as may be fixed from time to time by the county council.

(2) The term of office of parish councillors shall be three years, and they shall retire together on May 20th, 1949, and on May 20th every third year thereafter, and their places shall be filled by the newly elected councillors who shall come into office on that day.

Election

The provision for the day of election is the same as that for district councils. (See Sec. 57 (3) above.)

Persons entitled to vote, see page 45.

See page 55 for filling of casual vacancy.

ELECTION OF COUNCILLORS

FOR COUNTY COUNCILS, MUNICIPAL BOROUGHs, DISTRICT COUNCILS AND PARISH COUNCILS

The second schedule of the Representation of the People Act, 1949, provides for the procedure for county council and municipal elections, and a series of statutory rules provide for district, parish and metropolitan elections.

The provisions of the schedule and of the rules are identical in the main outlines. Therefore, the provisions of the schedule are set out in the following sections, and any variations for other elections are indicated by appropriate notes.

A slight simplification of wording, by omission of phrases such as "of a borough" or "of a county council," etc., where the word "councillor" can stand for councillor of any council, has been made to make reading easier. And further, to avoid unnecessary complications, the term "electoral area" has been used in places to cover a reference to a borough area, a ward, a parish, or a combination of parishes, whichever unit might be appropriate in considering the particular election.

Time-Table of Proceedings

(C.C. elections take place in April. All other elections in May. See pages 12 to 14 for computation of dates).

<i>Proceeding</i>	<i>C.C., Municipal Borough, Urban District</i>	<i>Rural District and Parish</i>
	<u>NOT LATER THAN</u>	<u>NOT LATER THAN</u>
Notice of election ..	The twentieth day before the day of election.	The twenty-second day before the Day of Election.
Delivery of nomination papers	Noon on the fourteenth day before the day of election.	Noon on the sixteenth day before the day of election.
Despatch of notices of decision on nominations & publication of statement of persons nominated.	Noon on the thirteenth day before the day of election.	Noon on the thirteenth day before the day of election.
Delivery of notices of withdrawals from candidatures	Noon on the twelfth day before the day of election.	Noon on the twelfth day before the day of election.
Notice of poll	The fifth day before the day of election.	The fifth day before the day of election.
Notice of appointment of polling or counting agents.	The third day before the day of election.	The third day before the day of election.

NOTE

In computing any period of time for the purposes of this time-table, a Sunday, Christmas day, Good Friday, Bank Holiday or day appointed for public thanksgiving or mourning and the Saturday before and the Tuesday after Easter Day or Whit Sunday shall be disregarded and any such day shall not be treated as a day for the purpose of any proceedings up to the completion of the poll, nor shall the returning officer be obliged to proceed with the counting of the votes thereon. The preparation of special lists or the issue of postal ballot papers on the aforesaid Saturday or Monday is not affected. (For time-table of issue of postal ballot papers, see page 25).

Section 106 provides for validity where an act or election has to be done or carried through on the first day after any of the excluded days.

NOMINATION

Representation of the People Act 1949 Second Schedule for C.C. and Boroughs and Statutory Election Rules for District and Parish Elections.

Notice of Election

On or before the day appointed for that purpose (see Timetable, p.15) a notice of election shall be published in the form prescribed.

Provides that the R.O. or Clerk shall prepare and sign a notice of election and cause it to be exhibited at the Council Offices and in other conspicuous places in the electoral area as he may determine.

Nomination of Candidates

Each candidate shall be nominated by a separate nomination paper in the prescribed form, or a form to the like effect, delivered at the place fixed for the purpose.

The nomination paper shall state the full names, place of residence and description of the candidate and the surname shall be placed first in the list of his names.

The nomination paper shall be subscribed by two electors for the electoral area as proposer and seconder and by eight other electors for that area as assenting to the nomination. (Read the Notes on the nomination papers.)

In the case of R.D.C. and P.C. to be signed by proposer and seconder. No assentors required. (See Nomination Forms.)

The description of a candidate in his nomination paper shall not refer to his political activities, and need not refer to his rank, profession or calling so long as, with the other particulars of the candidate, it is sufficient to identify him.

NOTE

In ordinary cases the mention of the occupation of the person, such as engineer, clerk, bricklayer, trade union secretary, will suffice. In the case of women the terms married woman or housewife will often suffice. In the case of outside occupations, i.e., dressmaker, teacher, shop assistant, machinist, weaver, etc., the words "spinster" or "married woman" should be inserted in addition.

If the description is unduly long, the R.O. or mayor in boroughs after consultation (if possible) with the candidate or his election agent, proposer or seconder, may shorten it or substitute another.

Where a nomination paper bears the signature of more than the required number of persons as proposing, seconding or assenting to the nomination of a candidate, the signature or signatures (up to the required number) appearing first on the paper in each category shall be taken into account to the exclusion of any others in that category.

NOTE

This is a change in that no assentors' signatures extra to the eight required will avail for any consideration. The first eight signatures only determine whether the paper is valid or not.

MUNICIPAL, COUNTY AND URBAN DISTRICT COUNCILS

Form of Nomination Paper.

ELECTION OF A COUNTY COUNCILLOR [COUNCILLORS] [ELECTIVE AUDITORS] [URBAN DISTRICT COUNCILLORS] for the [Electoral Division] [Ward] of the [County of] [Borough of] [Urban District of]

Date of publication of notice of election.

We, the undersigned, being respectively local government electors for the said [Electoral Division] [Ward] [Borough] [Urban District], do hereby nominate the under-mentioned person as a candidate at the said election.

Candidate's Surname	Other Names in full	Place of Residence	Description

Signature	Electoral Number (see Note 3)
Proposer.....
Secondor.....
We, the undersigned, being respectively local government electors for the said [Electoral Division] [Ward] [Borough] District do hereby assent to the foregoing nomination.	
1.
2.
3.
4.
5.
6.
7.
8.

NOTES.

1. The attention of candidates and electors is drawn to the rules for filling up nomination papers and other provisions relating to nomination contained in the election rules in the (Second Schedule to the Representation of the People Act, 1949) (First Schedule to the Urban District Council Rules, 1951).

2. Where a candidate is commonly known by some title he may be described by his title as if it were his surname.

3. A person's electoral number is his number in the register to be used at the election (including the distinctive letters (if any) of the register and of the Parliamentary polling district in which he is registered) except that before publication of the register his number (if any) in the electors lists for that register shall be used instead.

4. An elector may not (a) subscribe more than one nomination paper in respect of the same electoral division; (b) subscribe more than one nomination paper in respect of the same candidate.

5. At an election at which the date fixed for the poll falls after the 15th March and before the 2nd October, a person marked with a "Y" in the register to be used at that election may not subscribe a nomination paper.

Paragraph 4 of the Municipal and Urban District forms reads as follows:

A local government elector may not:

- subscribe more nomination papers than there are vacancies to be filled in the elector area; or
- subscribe a nomination paper for more than one ward of a borough (urban district) divided into wards; or
- subscribe more than one nomination paper in respect of the same candidate.

Note: Death or early withdrawal of a candidate makes an exception.

RURAL DISTRICT COUNCIL AND PARISH COUNCIL

Form of Nomination Paper.

ELECTION OF RURAL DISTRICT COUNCILLORS for the [] Ward of the
Parish of] [Parish of]]Combined Parishes of] in
the Rural District of

Date of publication of notice of election

We, the undersigned, being local government electors for the said [Ward] [Parish]
[Combined parishes], do hereby nominate the undermentioned person as a candidate at the
said election.

ELECTION OF PARISH COUNCILLORS for the [] Ward of the
Parish of

Date of publication of notice of election

We, the undersigned, being local government electors for the said [Ward] [Parish] do
hereby nominate the undermentioned person as a candidate at the said election.

Candidate's Surname	Other Names in full	Place of Residence	Description

Signature

Electoral Number
(see note 3)

PROPOSER.....

SECONDER.....

NOTES

1. The attention of candidates and local government electors is drawn to the rules for filling up nomination papers and other provisions relating to nomination contained in the election rules in the First Schedule to the Rural District Council Election Rules, 1951 (Parish Council Election Rules, 1952).

2. Where a candidate is commonly known by some title he may be described by his title as if it were his surname.

3. A person's electoral number is his number in the register to be used at the election (including the distinctive letter of the Parliamentary polling district in which he is registered) except that before publication of the register his number (if any) in the electors lists for that register shall be used instead.

4. A local government elector may not—

- (a) subscribe more nomination papers than there are vacancies to be filled in the electoral area; or
- (b) subscribe a nomination paper for more than one electoral area of a rural district; or (for more than one ward of a parish divided into wards) or
- (c) subscribe more than one nomination paper in respect of the same candidate.

5. At an election at which the date fixed for the poll falls after the 15th March and before the 2nd October, a person marked with a "Y" in the register to be used at that election may not subscribe a nomination paper.

In the case of parish. Note 5 reads as follows : "A person marked with a 'Y' in the register to be used at the election may not subscribe a nomination paper."

If any person subscribes nomination papers in contravention of the last foregoing paragraph his signature shall be inoperative in all but those papers, up to the permitted number, which are first delivered.

(See the respective nomination forms for instructions.)

At an election of a councillor or councillors, the proper officer, shall provide nomination papers and shall supply any local government elector for the electoral division, borough or ward, as the case may be, with as many nomination papers

as may be required and shall, at the request of any such local government elector, prepare for signature a nomination paper.

The proper officer is the returning officer or clerk, as the case may be.

Candidate's Consent to Nomination

Rule 7(1). A person shall not be validly nominated unless his consent to nomination, given in writing on or within one month before the last day for the delivery of nomination papers, and attested by one witness, is delivered at the place and within the time appointed for the delivery of nomination papers:

Provided that in the case of an election to fill a casual vacancy if the Returning Officer (mayor or clerk) is satisfied that owing to the absence of a person from the United Kingdom it has not been reasonably practicable for his consent in writing to be given as aforesaid, a telegram consenting to his nomination and purporting to have been sent by him shall be deemed, for the purpose of this paragraph, to be consent in writing given by him on the day on which it purports to have been sent and attestation of his consent shall not be required.

This proviso relating to casual vacancies does not apply to parish councils.

Rule 7(2). The candidate's consent to nomination shall contain a statement that he is qualified as required by law to be elected to and hold the office in question, and the statement shall give particulars of his qualification.

(See page 9 for qualifications of candidates.)

(Note that the consent be given during the month previous to last day for nomination. It must be delivered at the time for delivery of the nomination papers.)

A FORM OF CANDIDATE'S CONSENT

I,
of

hereby consent to my nomination as a candidate for the office of ⁽¹⁾.....
councillor for the ⁽²⁾..... of the ⁽¹⁾..... of.....

I am qualified as required by law to be elected to and hold the office in question. Particulars of my qualification are that I am of full age and a British subject or citizen of the Republic of Ireland, and

- *^(a) I am a local government elector for the ⁽¹⁾..... of.....;
- *^(b) I own freehold or leasehold land within the ⁽¹⁾..... of.....
- *^(c) I have during the whole of the twelve months preceding the ⁽³⁾.....
day of 19.. resided in the ⁽¹⁾..... of.....⁽⁴⁾.

(*Delete if not applicable).

Signed
Date.....

Signed in my presence,

Witness's Signature.....
Address.....

Date.....

- ⁽¹⁾ Here insert "county", "borough", "urban district", "rural district", or "parish" as the case may be.
- ⁽²⁾ Here insert the name and description of the electoral area (electoral division, ward, parish or combined parishes).
- ⁽³⁾ Here insert the date on which the poll is to be held if the election is contested.
- ⁽⁴⁾ In the case of an election of parish councillors, the words "or within three miles thereof" may be added here.

Printed forms are usually supplied by the R.O. or clerk.

POINTS ON NOMINATION PAPERS

The candidates full names must be given; initials disqualify.

A person can acquire a name by repute, hence a candidate well known as Pat Wray could be entered :

Wray, John, commonly known as Pat.

and a married woman can be known by her maiden name, hence a woman candidate, Sarah Norton, could be entered :

Simpson, Sarah
wife of William Norton.

Consult the R.O. beforehand in any cases of doubtful names.

Place of abode means residence not " of business " (R. v. Hammond). If the true place of abode is given though with some inaccuracy, but not so as to mislead, the nomination paper is good (R. v. Spratley).

The name of the town or village is a part of the address and must be inserted.

An omission of candidate's description is fatal (R. v. Tugwell). The description must not include names of companies or societies.

The candidate's name, etc., must be entered on nomination paper before proposer and seconder sign, and the latter before assenters sign.

In one case a man signed himself Charles Arthur Burnham; on the register his name was given as Charles Burnham. It was held that the paper was invalid.

It is necessary to sign one's names as spelt in the register.

A safe rule is, where there is only one initial sign the full christian name. Two initials are more evidence of identity, but one of the christian names might be given : " Wilfred J. Essex."

In almost every election a nomination paper is spoiled by a signatory recording surname first, e.g., Smith, Albert, instead of as a signature, Albert Smith.

A paper has been held bad for insertion afterwards of another proposer (Harman v. Park, 1881).

Held that assenters' numbers must be correctly stated (Gothard v. Clarke).

Where the P.D. letter and number are required the omission of the P.D. letter can invalidate the paper. The electoral number = Reg. No. + P.D. letters.

Three Nomination Papers

To avoid any failure of nomination, provide three nomination papers, check them carefully and see that they are delivered one or two days prior to the last day. Do not take any risk of failure with one nomination paper at the last hour.

Time and Place for Sending in Nomination Papers

Every nomination paper shall be delivered at the place appointed for the purpose by the returning officer (and in the case of a borough, at the town clerk's office), not later than the time appointed for that purpose. (See Time-table, page 15.)

NOTE

The nomination papers may be delivered personally or by post. If sent by post they should be registered.

Decision as to Validity of Nomination

Where a nomination paper and the candidates consent thereto are delivered in accordance with these rules, the candidate shall be deemed to stand nominated unless and until the returning officer decides that the nomination paper is invalid, or proof is given to the satisfaction of the returning officer of the candidate's death or the candidate withdraws.

As soon as may be after the time for the delivery of nomination paper has expired, the returning officer shall examine the nomination papers, and decide whether the candidates have been validly nominated in accordance with the provisions of the 2nd Schedule, R.P.A., 1949.

In determining whether a person's signature on a nomination paper is inoperative on the ground that he has signed more papers than is allowed, a paper previously signed by him shall be disregarded if the candidate thereby nominated has died or withdrawn before delivery of the first mentioned paper.

The R.O. or mayor in boroughs shall not be entitled to hold a nomination paper invalid except on one of the following grounds, that is to say :

(a) that the particulars of the candidate or the persons subscribing the paper are not as required by law; and

(b) that the paper is not subscribed as so required;

or, where a nomination paper and the candidate's consent is delivered in accordance with the local elections rules, be entitled to hold the nomination invalid except on the ground of the invalidity of the nomination paper.

Where the R.O. decides that a candidate has been so validly nominated, his decision shall be final and shall not be questioned in any proceeding whatsoever.

Where the R.O. decides that a candidate has not been so validly nominated, he shall endorse and sign on the nomination paper the fact and reasons for his decision.

The decision of the R.O. under the last preceding sub-paragraph shall be subject to review on an election petition questioning the election.

Not later than the time appointed for that purpose the R.O. shall send notice of his decision to each candidate at his place of residence as stated on his nomination paper. (See Time-table, page 15.)

NOTE

It is submitted that the R.O. is to decide objections to the nomination paper itself and only to defaults appearing on its face. He has no jurisdiction to determine such a question as the qualification of a candidate, which can only be determined by election petition (Berwick, 1946) though it is suggested that he ought to reject a nomination which is unreal or most obviously bad.

Publication of Nominations

The Returning Officer, or the mayor in municipal boroughs, shall prepare a statement in the form prescribed containing the full names of all persons nominated and their places of residence and descriptions and his decision whether those persons have been validly nominated, and shall publish the statement by causing it to be affixed to the place appointed for the delivery of nomination papers. (See Time-table, page 15.)

The said statement shall show the persons standing nominated arranged alphabetically in the order of their surnames, and if there are two or more of them with the same surname, of their other names, and shall take the particulars of all persons nominated from their nomination papers or, in the case of a person nominated by more than one nomination paper, from such one of the papers as the candidate or the returning officer or mayor in default of the candidate may select.

In the case of a candidate nominated by more than one nomination paper, the paper selected under the last foregoing sub-paragraph shall be deemed to be his nomination paper for the purposes of the elections.

Withdrawal of Candidates

A candidate may withdraw from his candidature by notice of withdrawal signed by him and attested by one witness and delivered at the place appointed for the delivery of nomination papers not later than the time appointed for that purpose. (See Time-table, page 15). Where the candidate is abroad a notice of withdrawal and a declaration of the candidate's absence, both signed by the proposer, shall have effect, but where there is more than one nomination paper, see Local Election Rule 11, 2nd Schedule, R.P.A., 1949.

Nomination in More than One Electoral Division or Ward

Rule 12. A candidate who is validly nominated for more than one electoral division of a county or for more than one ward of a borough must duly withdraw from his candidature in all those electoral divisions or wards, as the case may be, except one, and if he does not so withdraw he shall be deemed to have withdrawn from his candidature in all those electoral divisions or wards, as the case may be.

Nomination and Election

13.—(1) If the number of persons remaining validly nominated for the electoral area after any withdrawals under these rules exceeds the number of vacancies, the councillors shall be elected from among them at a poll under Part III of these rules.

(2) If the said number does not exceed the number of vacancies, the person or persons (if any) deemed to be elected under the following provisions of this rule shall be declared elected in accordance with Part IV of these rules.

(3) The person or persons (if any) remaining validly nominated for the electoral area after any withdrawals under these rules shall be deemed to be elected.

(4) If at an ordinary election of a councillor for a county, no person remains validly nominated the retiring councillor, if any, for the electoral division shall be deemed to be elected.

(5) If, at an ordinary election of borough, district or parish councillors, no person remains validly nominated as aforesaid, or the number of persons so remaining validly nominated is less than the number of vacancies, such of the retiring councillors for the electoral area as were highest on the poll at the last ordinary election, or as filled the places of councillors who were highest on the poll at that election, or if the poll was equal or there was no poll, as may be determined by the drawing of lots conducted under the direction of the returning officer, shall be deemed to be elected to fill up the vacancies not filled under paragraph (3) of this rule.

Provided that this paragraph shall not apply where the retiring councillors were elected at a parish meeting or at a poll taken as the result of the proceedings at the said meeting.

Uncontested Election

If an election of councillors for an electoral area is not contested, the returning officer shall, not later than 11 o'clock in the morning of the day of election, publish a list of the persons elected, and shall forthwith return the names of the persons elected to the clerk of the council.

Death of Candidate

If before the commencement of the poll proof is given to the satisfaction of the returning officer that a candidate has died after the latest time for delivery of nomination papers or that a candidate shown in the statement as to the persons

nominated as remaining nominated had in fact died before the latest time for delivery of nomination papers, the returning officer shall countermand the poll. See next paragraph for procedure. No fresh nomination of any remaining candidate is necessary.

Omission to Hold Election, or Election Void or Countermanded

Sec. 72 (1), L.G.A., 1933. If at an election of a county councillor or of councillors of a borough or of district councillors :

- (a) the poll is countermanded by reason of the death of a candidate before the commencement of the poll; or
- (b) no person is or remains, or an insufficient number of persons are or remain, validly nominated to fill the vacancy or vacancies in respect of which the election is held and, in the case of an ordinary election, there is no retiring councillor or an insufficient number of retiring councillors to fill the vacancy or vacancies,

the county returning officer in the case of an election of a county councillor, or the mayor in the case of an election of councillors in a borough, or the returning officer in the case of district councillors shall order an election to be held on such day as he may appoint to fill any vacancy which remains unfilled.

Sub-sections 2, 3, 4, 5 provide for other cases where an election is not held or fails either wholly or in part or becomes void.

Sec. 55 L.G.A. 1933 provides that the County Council may direct the holding of an election in cases of difficulty over parish elections.

Register

Sec. 1 (6), E.R.A., 1949.—If any part of a register is not published within the time required by this section, then until the day following that on which it is published the corresponding part of the previous register (whether prepared before or after the passing of this Act) shall continue in use, and where any part of the register used at an election is a part continued in force by this subsection, the Representation of the People Acts (including this Act) shall have effect in relation to the election and the area to which that part relates as if the qualifying date by reference to which that part was prepared were the qualifying date for the election.

Free Copy of Register

The R.O. shall on request supply free one copy of the register for any electoral area to each candidate or his election agent at a local government election.

Requirement of Secrecy

Every returning officer, and every officer, candidate or candidate's election agent, candidate's wife or husband, polling agent, counting agent and other person permitted by the returning officer to attend at a polling station or the counting of votes, shall, before the opening of the poll or in the case of an agent appointed after the opening of the poll, before acting as such agent, make a declaration of secrecy in the form as set forth.

NOTE

The candidate, election agent, candidate's spouse or other permitted person can make declaration at any time before the count, whereas the polling and counting agents must do it three days beforehand:

FORM OF DECLARATION OF SECRECY

(For Poll and Count—Rule 27)

I solemnly promise and declare that I will not* do anything forbidden by sub-sections (1), (2), (3) and (6) of Section 53 of the Representation of the People Act, 1949, which have been read to me.

Signed.....

Signed.....

Justice of the Peace for.....

Date:.....
or Returning Officer.

* In the case of Urban, Rural and Parish elections insert the following: "at this election for the (.....) Ward of the Urban District of....."; (electoral area of the Rural District of.....); or (.....) Ward of the Parish of.....)

The provisions referred to in the Declaration are as follows :

R.P.A., 1949, sub-sections (1), (2), (3) and (6) of Section 53.

(1) Every returning officer, every presiding officer or clerk attending at a polling station, every candidate or election agent or polling agent so attending : shall maintain and aid in maintaining the secrecy of voting and shall not, except for some purpose authorised by law, communicate to any person before the poll is closed any information as to :

- (i) the name of any elector or proxy for an elector who has or has not applied for a ballot paper or voted at a polling station; or
- (ii) the number of the register of electors of any elector who, or whose proxy, has or has not applied for a ballot paper or voted at a polling station; or
- (iii) the official mark.

(2) Every person attending at the counting of the votes shall maintain and aid in maintaining the secrecy of voting and shall not :

- (a) ascertain or attempt to ascertain at the counting of the votes the number on the back of any ballot paper;
- (b) communicate any information obtained at the counting of the votes as to the candidate for whom any vote is given on any particular ballot paper.
- (3) No person whatsoever shall :
 - (a) interfere with or attempt to interfere with a voter when recording his vote;
 - (b) otherwise obtain or attempt to obtain in a polling station information as to the candidate for whom a voter in that station is about to vote or has voted;
 - (c) communicate at any time to any person any information obtained in a polling station as to the candidate for whom a voter in that station is about to vote or has voted, or as to the number on the back of the ballot paper given to a voter at that station;
 - (d) directly or indirectly induce a voter to display his ballot paper after he has marked it so as to make known to any person the name of the candidate for whom he has or has not voted.

(6) If any person acts in contravention to this section he shall be liable on summary conviction to imprisonment for a term not exceeding six months.

ABSENT VOTERS' BALLOT PAPERS

The following is a summary of the main points of rules 36 to 52 of the R.P. Regulations, 1950. (See page 27. A.V. Lists).

Issue of Absent Voters' Ballot Papers

The R.O., not later than the day of nomination, will notify the election agent of the time and place of issue of ballot papers to absent voters, and the number of persons each agent may appoint to attend. The names must be sent to the R.O. one clear day at least before the day of issue.

The appointed persons must make a separate (A.V.) declaration of secrecy.

At the issue the agents will observe that for each absent voter there is a prescribed addressed envelope in which are enclosed—

- (1) An ordinary ballot paper duly marked or stamped.
- (2) A form of "declaration of identity" on which the ballot paper number is marked.
- (3) An envelope for the ballot paper.
- (4) An addressed return envelope (for the identity form and ballot paper envelope).

All the addressed packages are counted and forthwith delivered to the Post Office.

The number of the absent voters shall be written on the counterfoil of the ballot paper, and a mark shall be placed against the name in the A.V. list, but not the number of the ballot paper.

The R.O. shall, in the presence of the agents, show one or more ballot boxes open and empty, and shall close and seal them and also allow any agents to affix seals.

On receipt of A.V. envelopes the R.O. shall immediately place them unopened in the absent voters' ballot box. The same agents will no doubt attend the first count of A.V. ballot papers.

First Count of Absent Voters' Ballot Papers

The R.O. is required to open the absent voters' ballot envelopes at or before the time fixed for the counting of the votes, and shall give more than 24 hours' notice to each election agent of the place and time at which he will open the absent voters' ballot boxes and indicate the number of counting agents allowed.

One postal ballot box at least must be left unopened until close of poll.

When the ballot box is opened the number of envelopes shall be counted. Each covering envelope shall be opened separately.

The identity declaration shall be examined and number thereon compared with number in ballot paper envelope.

If R.O. proposes to reject any declaration of identity he shall show them to the agents, and if any objection is made by an agent he shall add to the endorsement "rejection objected to."

These "rejects" shall be kept separate.

The R.O. shall open each ballot paper envelope and compare number on envelope with number on ballot paper. If they agree he shall place each ballot paper in a ballot box previously shown and sealed.

If the numbers do not agree the R.O. shall mark the ballot paper "rejected" and shall attach it to the envelope.

The R.O. must take steps to preserve secrecy and to insure that the agents are in no circumstances to be allowed to see the ballot paper number or the mark on the ballot paper. The R.O. will then seal in separate packets the declarations of identity and any rejected ballot papers (with envelopes) and declarations.

The absent voters' ballot boxes will then remain sealed until opened at the ordinary counting of votes.

THE POLL

R.P.A. 1949 (Second Schedule) and Local Election Rules, 1951

General Conduct of Poll

Rule 14. The votes at the poll shall be given by ballot, the result shall be ascertained by counting the votes given to each candidate, and the candidate or candidates to whom the majority of votes have been given shall be declared to have been elected.

Notice of Poll and Nominations

In the case of a contested election the returning officer shall, on or before the day appointed for that purpose, give notice of the poll, specifying particulars as to the day and hours, number of candidates, polling stations, etc.

(Same for all elections.) Time-tables, page 15.

The order of the names of the candidates, and the particulars of the candidates, in the notice of poll shall be the same as in the statement as to the persons nominated.

The notice of poll shall give the names of all persons signing a candidate's nomination paper, and not only those of the proposer and seconder, and in the case of a candidate nominated by more than one nomination paper (and except for rural district and parish elections) the candidate may require the returning officer or mayor to include in the notice the names of the persons signing a second and third nomination paper.

HOURS OF POLL

County Council and Municipal

Rule 3.—(1) The poll shall commence at 8 o'clock in the morning and be kept open till 8 o'clock in the afternoon of the same day and no longer.

District and Parish

In urban district council elections the hour of commencement shall be fixed by the county council. If no order has been made the hours will be from 8.0 a.m. until 8.0 p.m.

In rural district and parish council elections the poll shall commence at the hour fixed by the county council. If no order is made the hours shall be from 12 noon until 8.0 p.m.

Important.—It would be wise to ascertain the hours decided upon by enquiry at the council offices. In many instances wrong information has been given on poll cards and considerable inconvenience caused as a result.

Extension of Polling Hours for all Elections

Rule 3.—(1) Provided that the poll shall be kept open till nine o'clock in the evening if candidates remaining validly nominated to a number not less than the number of vacancies have, by written notices signed by them and delivered at the place and within the time for delivery of notices of withdrawals of candidature, so requested.

3.—(2) A notice under this rule shall not have effect as respects any candidate if revoked by a further written notice signed by him and delivered as aforesaid.

NOTE

The latest time is noon on the twelfth day before the day of election.

NOTES

Where a Borough is divided into Wards, each Ward contest is a separate election.

If there is one vacancy in a Ward, application for the extension from one candidate must be granted by the R.O.

If there are two vacancies in a Ward, then two candidates must make the request before it can be granted.

In a Borough without Wards, a number of candidates equal to the whole number of vacancies must apply in order to get an extension of hours for the Borough.

Where a local government area is divided into electoral divisions, or parishes, the contest in each division or parish is a separate election. The number of candidates making a request must be equal to the number of contests in an electoral division or parish. Where parishes or combinations of parishes are divided into wards, each ward contest is a separate election.

The notices for the extension must be handed in by or before the final time of withdrawal which is noon on the twelfth day before the day of election.

FORM OF APPLICATION FOR EXTENSION OF POLLING HOURS

Election of _____ councillor(s) for the (_____ Ward) in the

Date of publication of Notice of Election _____

(I, A.B., a candidate) (We, A.B., C.D., E.F., candidates) at the above election hereby request that the poll in the said election may be kept open till nine p.m. on the day on which the poll commences.

Dated this _____ day of _____ 19 _____
A.B.
(C.D.)
(E.F.)

To the Returning Officer.

Absent Voters Lists

Rule 24. The registration officer shall as soon as practicable prepare the following special lists, namely :

- (a) a list (in these rules referred to as " the absent voters list ") giving the name and number on the register of every person entitled to vote at the election as an absent voter;
- (b) a list (in these rules referred to as " the list of proxies ") giving :
 - (i) the names and numbers on the register of the electors for whom proxies have been appointed;
 - (ii) the names and addresses of the persons appointed;
- (c) a list of any persons entitled to vote by post as proxy at the election.

Reg. 26 (4).—The registration officer shall make a copy of the record of absent voters available for inspection at his office.

Polling Places

An election shall not be held in a church, chapel or other place of public worship

The use of a room in an unoccupied house for the said purpose shall not render a purpose liable to be rated or to pay any rate for the house.

Rule 22.—(1) The returning officer shall provide a sufficient number of polling stations and, subject to the following provisions of this rule, shall allot the electors to the polling stations in such manner as he thinks most convenient.

(2) One or more polling stations may be provided in the same room.

(3) The polling station allotted to electors from any parliamentary polling district wholly or partly within the electoral area shall, in the absence of special circumstances, be in the parliamentary polling place for that district, unless the polling place is outside the electoral area.

(4) The returning officer shall provide each polling station with such number of compartments as may be necessary in which the voters can mark their votes screened from observation.

A notice, in the form set forth in the 2nd Schedule, R.P.A. 1949, or as near thereto as circumstances admit, giving directions for the guidance of electors in voting, shall be exhibited outside every polling station, and in every compartment in the polling station.

The voter will go into one of the compartments and, with the pencil provided in the compartment, place a cross on the right-hand side of the ballot paper, opposite the name of the (or each, as may be) candidate for whom he votes, thus X.

Appointment of Polling Agents

(Second Schedule, R.P.A., 1949, and Local Election Rules, 1951 and 1952.)

Rule 26.—Each candidate may appoint polling agents to attend at polling stations for the purpose of detecting personation.

Notice in writing of the appointment, stating the names and addresses of the persons appointed shall be given by the candidate to the returning officer on the third day before the opening of the poll. (See Time-table, page 15.)

Every polling agent employed for payment on behalf of a candidate shall be appointed by the candidate's election agent.

If a polling agent dies, or becomes incapable of acting, the candidate may appoint another polling agent in his place, and shall forthwith give to the returning officer notice in writing of the name and address of the polling agent so appointed.

A polling agent may attend at the polling station to which he has been appointed. *The District and P.C. Election Rules provide:—*

Not more than three or, if the number of candidates exceeds twenty, four polling agents shall be appointed to attend at any polling station.

The appointment of an agent may be on behalf of more than one candidate; not more than one agent shall be appointed to attend on behalf of the same candidate at a polling station.

If the number of polling agents appointed to attend at a polling station exceeds the permitted number, only those agents, up to the permitted number, whose appointments are signed by or on behalf of the greater number of candidates, or in the event of an equality in the number of signatures, only such of those agents as may be determined by the returning officer, shall be deemed to have been duly appointed.

For a form of appointment see page 49. Agents must take Declaration of Secrecy.

PROCEDURE AT POLL

(Similar for All Elections)

Votes at Local Elections (see page 45)

Admission to Polling Station

Section 23, R.P.A., 1949, provides that all persons voting in Local Government elections shall do so in person at the polling station allotted to them, except those listed as absent voters.

The presiding officer shall regulate the number of voters to be admitted to the polling station at the same time, and shall exclude all other persons except (a) the candidates and their election agents; (b) the polling agents appointed to attend at the polling station; (c) the clerks appointed to attend at the polling station; (d) the constables on duty; and (e) the companions of blind voters.

Keeping of Order in Station

It shall be the duty of the presiding officer to keep order at his polling station. Persons misconducting themselves may be removed from the polling station or even taken into custody, but the powers conferred by this provision shall not be exercised so as to prevent a voter who is otherwise entitled to vote at a polling station from having an opportunity of voting at that station.

Ballot Boxes to be Sealed

Immediately before the commencement of the poll, the presiding officer shall show the ballot box empty to such persons, if any, as may be present in the polling station, so that they may see that it is empty, and shall then lock it up and place his seal upon it in such manner as to prevent it being opened without breaking the seal, and shall place it in his view for the receipt of ballot papers, and keep it so locked and sealed.

Questions to be Put to Voters

The presiding officer may, and if required by a candidate or his election or polling agent shall, put to any person applying for a ballot paper at the time of his application, but not afterwards, the following questions, or either of them, that is to say—

(a) in the case of a person applying as an elector :

(i) Are you the person registered in the register of local government electors now in force for this * as follows (read the whole entry from the register) ?

(ii) Have you already voted at the present election† (adding in the case of an election for several wards, in this or any other ward) otherwise than as proxy for some other person ?

(b) in the case of a person applying as proxy :

(i) Are you the person whose name appears as A.B. in the list of proxies for this election as entitled to vote as proxy on behalf of C.D. ?

(ii) Have you already voted here or elsewhere at the present election as proxy on behalf of C.D. ?

A ballot paper shall not be delivered to any person required to answer the above questions or any of them unless he has answered the questions or question satisfactorily.

Save as by this provision, no inquiry shall be permitted as to the right of any person to vote.

* Insert electoral division, borough, district, ward or parish as the case may be.

† In the case of C.C. elections the words are "... present election of a county councillor for this electors division."

Challenge of Voter

If at the time a person applies for a ballot paper for the purpose of voting in person, or after he has applied for a ballot paper for that purpose and before he has left the polling station, a candidate or his election or polling agent declares to the presiding officer that he has reasonable cause to believe that the applicant has committed an offence of personation and undertakes to substantiate the charge in a court of law, the presiding officer may order a constable to arrest the applicant, and the order of the presiding officer shall be sufficient authority for the constable so to do.

A person against whom a declaration is made under this provision shall not by reason thereof be prevented from voting.

A person arrested under the provisions of this provision shall be dealt with as a person taken into custody by a constable for an offence without warrant.

Voting Procedure

Rule 33, 2nd Schedule, R.P.A. 1949.—A ballot paper shall be delivered to a voter who applies therefor, and immediately before delivery—

(a) the ballot paper shall be stamped with the official mark, either embossed or perforated;

(b) the number, name and description of the elector as stated in the copy of the register shall be called out;

- (c) the number of the elector together with the distinctive letter of the parliamentary polling district in which the elector is registered shall be marked on the counterfoil;
- (d) a mark shall be placed in the register against the number of the elector to denote that a ballot paper has been received but without showing the particular ballot paper which has been received; and
- (e) in the case of a person applying for a ballot paper as proxy, a mark shall also be placed against his name in the list of proxies.

The voter, on receiving the ballot paper, shall forthwith proceed into one of the compartments in the polling station and there secretly mark his paper and fold it up so as to conceal his vote, and shall then show to the presiding officer the back of the paper, so as to disclose the official mark, and put the ballot paper, so folded up, into the ballot box in the presence of the presiding officer. The elector shall vote without undue delay, and shall leave the polling station as soon as he has put his ballot paper into the ballot box.

Incapacitated Voter

Rule 34.—The presiding officer, on the application of—

- (a) a voter who is incapacitated by blindness or other physical cause from voting in manner directed by these rules; or
- (b) if the poll is taken on a Saturday, of a voter who declares that he is a Jew, and objects on religious grounds to vote in manner directed by these rules; or
- (c) of a voter who declares orally that he is unable to read;

shall, in the presence of the polling agents, cause the vote of the voter to be marked on a ballot paper in manner directed by the voter, and the ballot paper to be placed in the ballot box.

Provides that a list of names and register numbers of such voters shall be compiled.

In the case of proxies the number, together with the name of the proxy shall be listed.

A Blind Voter may be accompanied by a Companion

The person who is to act as companion must either—

- (a) be entitled at an election of councillors, to vote in the same county electoral division, the same ward of a borough or urban district, or the same parish or ward of a parish, according to circumstances; or
- (b) be the father, mother, brother, sister, husband, wife, son or daughter of the blind voter and have attained the age of 21 years.

No person who does not possess one or other of the foregoing qualifications will be eligible to act as companion.

A person will not be eligible to act as companion for more than two blind voters at the same election.

The preliminaries will comprise (a) the making of an oral declaration by the voter that he or she is so incapacitated by blindness as to be unable to vote without assistance, and (b) the making by the companion of a written declaration (in a form which will be supplied by the presiding officer) to the effect that he or she is properly qualified and has not previously assisted more than one blind voter at the election.

The declaration made by the companion shall be made before the presiding officer on a form provided at the time when the voter applies to vote with the assistance of a companion and shall forthwith be given to the presiding officer who shall attest and retain it.

Tendered Ballot Papers

If a person representing himself to be (a) a particular elector named on the register and not named in the absent voters list; or (b) a particular person named in the list of proxies as proxy for an elector and not named in the list of persons entitled to vote by post as proxy, applies for a ballot paper after another person has voted in person either as the elector or his proxy, the applicant shall, on satisfactorily answering the questions permitted by law to be asked at the poll, be entitled, subject to the following provisions of this rule, to mark a ballot paper (in these rules referred to as "a tendered ballot paper") in the same manner as any other voter.

A tendered ballot paper shall (a) be of a colour differing from the other ballot papers; (b) instead of being put into the ballot box, be given to the presiding officer and endorsed by him with the name of the voter and his number in the register of electors, and set aside in a separate packet.

The name of the voter and his electoral number shall be entered on the "tendered votes list" similar for proxies.

Spoilt Ballot Papers

An elector who has inadvertently dealt with his ballot paper in such manner that it cannot be conveniently used as a ballot paper may, on delivering it to the presiding officer and proving the fact of the inadvertence to his satisfaction, obtain another ballot paper in the place of the ballot paper so delivered up (in this schedule called "a spoilt ballot paper"), and the spoilt ballot paper shall be immediately cancelled.

Close of Poll

The supply of papers to voters must cease at (8) (9) p.m. precisely. No voters must be admitted after (8) (9) p.m. and no votes must be received after that hour *except* from voters who had obtained admission to the polling station, and had applied for and received ballot papers by or before (8) (9) p.m. (Islington, 1901). Other electors in the station cannot claim to have ballot papers delivered to them.

It may be necessary to check whether the clock is set to the correct time. Once closed, the poll cannot be reopened (Arundel case). Notwithstanding the death or reported death of a candidate, after the poll has commenced, the poll will remain open until the appointed hour.

If too big a queue of electors seems in evidence in the last hour or so, the agent should be notified at once so that he can telephone the R.O., who may be able to send extra clerks to cope with the rush.

Packets of Ballot Papers, etc., to be Sealed

As soon as practicable after the close of the poll, the presiding officer shall, in the presence of the polling agents, make up into separate packets, sealed with his own seal and the seals of such polling agents as desire to affix their seals, each ballot box in use at his station, sealed so as to prevent the introduction of additional ballot papers and unopened, but with the key attached; various sets of sealed papers, the unused and spoilt ballot papers, the tendered ballot papers, the marked copies of the register and the counterfoils of the ballot papers.

The packets shall be accompanied by "the ballot paper account" and accounting for (a) ballot papers in the ballot box; (b) unused and spoilt ballot papers; (c) tendered ballot papers.

THE COUNT

Appointment of Counting Agents

Each candidate may appoint agents (for Rural District and Parish Elections, one or more agents) to attend at the counting of votes.

Notice in writing of every appointment, stating the name and address of the person appointed shall be given by the candidate to the returning officer not later than the *third day before the opening of the poll*: and the returning officer may refuse to admit to the place where the votes are counted any counting agent whose name and address has not been so given, notwithstanding that his appointment may be otherwise valid, and any notice required to be given to a counting agent by the returning officer may be delivered at or sent by post to the address.

In computing "third day before," a Sunday must be excluded.

Provided that the returning officer may limit the number of counting agents who may attend on behalf of the candidates, so, however, that the number of those who may attend shall be the same in the case of each candidate and in the case of C.C., Borough, and U.D.C., the number allowed to a candidate shall not (except in special circumstances) be less than the number obtained by dividing the number of clerks employed on the counting by the number of candidates.

If a counting agent dies or becomes incapable of acting, another one may be forthwith appointed and notified to the R.O.

Counting agents may be appointed and the notice of appointment given to the returning officer by the candidate's election agent, instead of by the candidate.

For a form of appointment see page 49. Agents must take Declaration of Secrecy.

Candidates can officiate

A candidate may himself do any act or thing which any polling or counting agent of his, if appointed, would have been authorised to do, or may assist his agent in doing any such act or thing.

Counting of Votes

The returning officer shall make arrangements for counting the votes in the presence of the counting agents as soon as practicable after the close of the poll, and shall give to the counting agents notice in writing of the time and place at which he will begin to count the votes.

No person other than the returning officer and his clerks; the candidates and their wives or husbands; the election agents; the counting agents; may be present at the counting of the votes, unless permitted by the returning officer to attend.

Before the R.O. proceeds to count the votes, he shall, in the presence of the counting agents, open each ballot box and, taking out the ballot papers therein, shall count and record the number thereof, and then mix together the whole of the papers contained in the ballot boxes.

The R.O., while counting and recording the number of ballot papers and counting the votes, shall keep the ballot papers with their faces upwards, and take all proper precautions for preventing any person from seeing the numbers printed on the back of the papers.

The returning officer shall, as far as practicable, proceed continuously with counting the votes, allowing only time for refreshment. Provided that he may, in so far as he and the agents agree (in the case of rural and parish, in so far as he thinks necessary) exclude the hours between eight o'clock in the evening and nine o'clock on the following morning.

For the purposes of this proviso the agreement of a candidate or his election agent shall be as effective as the agreement of his counting agents, but where a

counting agent has been appointed to attend on behalf of more than one candidate jointly, the agreement shall be that of the agent unless each of those candidates or his election agent agrees.

NOTE

The Act provides that so far as practicable, the counting of votes under these rules may (unless otherwise determined) proceed continuously by night as by day, allowing only time for refreshment.

During the excluded time the returning officer shall take proper precautions for the security of the ballot papers and other documents, and in particular shall place the ballot papers and other documents relating to the election under his own seal and the seals of such of the counting agents as desire to affix their seals.

When R.D.C. and P.C. Elections are taken together

Before the returning officer proceeds to count the votes, he shall :—

- (a) In the presence of the counting agents open each ballot box and, taking out the ballot papers therein, count and record the number thereof;
- (b) If polls have been taken together for the election of rural district councillors and parish councillors, separate the ballot papers relating to the election of rural district councillors from those relating to parish councillors and count and record the numbers relating to each election, and
- (c) Then mix together the whole of the ballot papers relating to each election of councillors contained in the ballot boxes.

Oversight of Count by Agents

The returning officer shall give the counting agents all such reasonable facilities for overseeing the proceedings, and all such information with reference thereto, as he can give them consistently with the orderly conduct of the proceedings and the discharge of his duties in connection therewith.

In particular, where the votes are counted by sorting the ballot papers according to the candidate for whom the vote is given and then counting the number of ballot papers for each candidate, the counting agents shall be entitled to satisfy themselves that the ballot papers are correctly sorted.

NOTES

It is presumed that the election agent is entitled to inspect the final bundles of papers arranged under the respective candidates' names.

The first counting is a totalling of the papers in each box and verification with R.O.'s ballot paper account.

After the mixing of all the ballot papers, they are then sorted into piles for each of the candidates—the respective piles are then counted and the results totalled by the R.O. for each candidate.

In the case of one election to fill two or more vacancies the usual procedure is for two counters to sit together; one is supplied with a ruled enumerating sheet and marks a stroke in the appropriate space as the counter calls out the name of each candidate and the vote for him. The enumeration sheets are then called over to the R.O., who inserts the figures on his chart, and finally totals the aggregate votes for each candidate.

Dealing with Doubtful Ballot Papers

Rule 43, 2nd Schedule, R.P.A. 1949.—Any ballot paper (a) which does not bear the official mark; or (b) on which votes are given for more candidates than the voter is entitled to vote for; or (c) on which anything is written or marked by which the voter can be identified except the printed number on the back; or (d) which is unmarked or void for uncertainty; shall, subject to the provisions of this rule, be void and not counted.

Where the voter is entitled to vote for more than one candidate, a ballot paper shall not be deemed to be void for uncertainty as respects any vote as to which no uncertainty arises and that vote shall be counted.

A ballot paper on which a vote is marked :

- (a) elsewhere than in the proper place; or
- (b) Otherwise than by means of a cross; or
- (c) by more than one mark;

shall not by reason thereof be deemed to be void (either wholly or as respects that vote), if an intention that the vote shall be for one or other of the candidates clearly appears and the way the paper is marked does not of itself identify the voter and it is not shown that he can be identified thereby.

The returning officer shall endorse :

- (a) the word " rejected " on any ballot paper which under this rule is not to be counted; and
- (b) In the case of a ballot paper on which any vote is counted under paragraph (2) of this rule, the words " rejected in part " and a memorandum specifying the votes counted;

and shall add to the endorsement the words " rejection objected to " if an objection is made by a counting agent to his decision.

The returning officer shall draw up a statement showing the number of ballot papers rejected, including those rejected in part, under the several heads, and any counting agent may copy the statement.

The decision of the returning officer on any question arising in respect of a ballot paper shall be final, but shall be subject to review on an election petition.

Re-Count

A candidate or his election agent may, if present when the counting or any re-count of the votes is completed, require the returning officer to have the votes re-counted or again re-counted but the returning officer may refuse to do so if in his opinion the request is unreasonable.

No step shall be taken on the completion of the counting or any re-count of votes until the candidates and election agents present at the completion thereof have been given a reasonable opportunity to exercise the right conferred by this provision.

Equality of Votes

Where, after the counting of the votes (including any re-count) is completed, an equality of votes is found to exist between any candidates and the addition of a vote would entitle any of those candidates to be declared elected, the returning officer shall forthwith decide between those candidates by lot, and proceed as if the candidate on whom the lot falls had received an additional vote.

Declaration of Result

When the result of the poll has been ascertained, the R.O. shall forthwith declare to be elected the candidate or candidates to whom the majority of votes have been given, and shall as soon as possible publish the name or names of the candidate or candidates elected and the total number of votes given for each candidate, whether elected or not.

In an uncontested election the R.O. shall, not later than 11 o'clock in the morning on the day of election (which would have been polling day) publish the name or names of the person or persons elected.

Disposal of Ballot Papers, etc.

Upon the completion of the counting the R.O. shall seal up in separate packets the counted and rejected ballot papers, including ballot papers rejected in part. He shall not open the sealed packet of tendered ballot papers or the sealed packet containing the marked copy of the register of electors and counterfoils, but shall proceed, in the presence of the counting agents, to verify the ballot paper account given by each presiding officer by comparing it with the number of ballot papers recorded by him under Rule 41 of this Schedule, and the unused and spoilt ballot papers in his possession and the tendered votes list, and shall reseal each sealed packet after examination. The returning officer shall draw up a statement as to the result of the verification and shall, on request, allow any counting agent to copy the statement.

All the packets and statements shall be sent to the clerk of the council.

Except by order of a court made under the last preceding paragraph, no person shall be allowed to inspect any ballot papers in the custody of the clerk, or to open the sealed packet of counterfoils.

The clerk of the council shall retain for six months all documents relating to an election forwarded to him, and unless otherwise directed shall cause them to be destroyed.

The documents other than ballot papers and counterfoils can be inspected under certain conditions on application to the clerk.

County Court, Inspection of Ballot Papers

Second Schedule Rule 50—An order for—

- (a) The inspection or production of any rejected ballot papers, including ballot papers rejected in part; or
 - (b) For the opening of the sealed packets of counterfoils and certificates as to employment on duty at the poll or for the inspection of counted ballot papers;
- may be made by either the county court or an election court if the court is satisfied by evidence on oath that the order is required for the purpose of instituting or maintaining a prosecution for an offence in relation to ballot papers, or for the purpose of an election petition. (See the Rule for further details).

New Election

Sec. 72. L.G.A., 1933. Sub-sections (1) (2) (3) provides for holding a new election when candidate dies before commencement of the poll or a number of vacancies remain, etc., or election not held or becomes void. (See page 23.)

ELECTION EXPENSES AND RETURNS

Maximum Expenditure

Sec. 64, R.P.A., 1949.—No sum shall be paid and no expense shall be incurred by a candidate at an election or his election agent, whether before, during or after an election, on account of or in respect of the conduct or management of the election, in excess of the maximum amount specified in this section. The said maximum amount is for a candidate at a local government election, twenty-five pounds, and if the number of entries in the register of local government electors to be used at the election exceeds five hundred, an additional twopence for each entry above the first five hundred entries.

Joint Candidates

Where there are two joint candidates at an election the maximum amount of expenses shall for each of such joint candidates be reduced by one-fourth or if there are more than two joint candidates by one-third.

Joint candidatures ensue "where two or more candidates hire or use the same committee rooms, employ the same election agent, clerks, messengers or polling agent or publish a joint address or joint circular or notice. If the above hirings or employments, etc., are accidental or trivial they shall not be deemed of themselves to constitute a joint candidature. A Return for each candidate is required.

NOTE

In a local government area divided into wards, the candidate for each ward can appoint the same election agent, without making his candidature joint with candidates contesting other wards. The same applies to electoral divisions of an area.

The candidate's personal expenses do not count in the maximum expenses.

Agent to several Candidates

He is an individual agent for each candidate and must submit individual Returns and Declarations to the R.O.—no matter whether the expenses have been pooled.

Each of the Returns must be based on an allocation or division of costs involved in the election. The Returns should be sent in together with the receipted bills attached. In order to make them perfectly clear, they should be cross-referenced to agree with the various items on the lists.

Claims Within 14 Days After the Day of Declaration

All claims should be got in immediately. A note if necessary should be sent out to all firms and persons involved stating that their claims on account of expenses must be received by the election agent within fourteen days, or they will be statute barred for payment. If the agent is receiving remuneration he must formally put in a documentary claim to himself. The candidate must give a statement of his "personal expenses" (if any) to the agent within 14 days.

Payments Within 28 Days (Excepting for Parish Elections)

There must be no nonsense or default over payments. If payments are not made in the time the agent is guilty of an illegal practice and liable to heavy penalties and will have to appeal to the County or High Court for relief. The costs of appeal will add considerably to his bill.

New agents must realise that there is no way of getting out of the responsibility for making and completing payments within the proper period.

Returns and Declarations Within 35 Days (Excepting for Parish Elections)

The returns should be got in earlier than the final day. It is wise to send the candidate's signed declaration at the same time to save worry, though by law his declaration can be sent in up to seven days later.

The returns should be prepared in an orderly manner, and an exact copy should be taken and preserved by the agent.

If R.O. does not supply forms the agent can make up a double foolscap summary of election expenses to show income and expenditure under the several legal headings, and a number of foolscap sheets ruled for detailing the expenses under the appropriate headings. (See overleaf.)

The return of expenses has to be transmitted to the R.O. within thirty-five days after the day on which the declaration of the poll is made. To transmit is construed as "to send" and the return will be duly transmitted if sent on the last day. It is wise to minimise risks by sending the return to the R.O. before the period is expiring.

Every payment of forty shillings and over must be vouched for by a bill and receipt, and these must accompany the return.

The return and declaration must be sent although no expenses have been incurred by the candidate in and about the election. ("Arnold.") In counting, the days are consecutive. The form of return is as follows :

SUMMARY OF ELECTION EXPENSES

Election in the Ward of St. James' in the Borough of Manton.

Date of publication of notice of Election: April 19th.

Name of Candidate: Arthur James Bullen.

1. I am the Election Agent of the person named above as a Candidate at this Election [am the person named above as a Candidate at this Election and was my own Election Agent.]

2. I hereby make the following return of the Candidate's [my] Election expenses at this Election.

Received of*	RECEIPTS	£	s.	d.
The Railway Clerks' Association, 5 Bright Street, Manton	..	5	10	0
Arthur J. Bullen, 5 Ware Road, Manton	..	5	5	0
Manton Borough Labour Party, 18 High Street, Manton	..	30	0	0
		<u>£40</u>	<u>15</u>	<u>0</u>

*Include all money, securities or equivalent of money received in respect of expenses incurred on account of or in connection with or incidental to the above election.

	EXPENDITURE	£	s.	d.
Candidate's personal expenses (if any)	..	10	0	0
Received by me for my services as election agent at the said election	..	3	0	0
Paid to polling agents as per list marked 1	..	1	0	0
Paid to clerks as per list marked 2	..	2	10	0
Paid to messengers as per list marked 3	..	—	—	—
Paid to the following person in respect of goods supplied or work :				
For printing, as per list marked 4	..	22	10	0
For advertising, as per list marked 5	..	4	0	0
For stationery, as per list marked 6	..	0	15	0
Paid for holding public meetings, as per list marked 7	..	1	10	0
Paid for committee rooms, as per list marked 8	..	4	0	0
Paid for postage	..	7	6	—
Paid for telegrams	..	2	6	—
Paid for miscellaneous matter, as per list marked 9	..	10	0	—
Paid for speakers as per list marked 10	..	—	—	—
Paid by outside bodies as authorised, list marked 11	..	—	—	—
		<u>£40</u>	<u>15</u>	<u>0</u>

In addition to the above, I am aware, as election agent to of the following disputed and unpaid claims :

† Here insert all disputed and unpaid claims of which the agent has knowledge. If there are none, strike out the paragraph, or write "none."

(This is the Return of Election Expenses marked (insert here a letter or number).)

(Signed) WILLIAM JOHNSON,

Dated June 12th, 19...

Election Agent to Arthur James Bullen.

To avoid having to detail personal and local subscriptions these should not be received by the agent. All such subscriptions should be paid to the treasurer of the Party. The treasurer will pay over a bulk amount to the agent who will give his receipt to the Party for the amount and he will enter this on his return as received from the party.

The return is accompanied by lists numbered as per the references in the return.
Two specimens of entries on such lists are given herewith :

This is the list marked 2 referred to in the Summary of Expenses

PAID TO CLERKS

(The name, address and occupation of each Clerk should be given.)

	£	s.	d.
C. E. Turner (Insurance Agent), 10 East Street, Manton	2	10	0

This is the list marked 4 referred to in the Summary of Expenses.

PAID FOR PRINTING

(The name and address of each firm should be given, and some indication of goods where invoices not attached thereto.)

	£	s.	d.
Randall Press Ltd., High Street, Manton (as per invoice)	14	12	6

The bills and receipts can be affixed to each of the several lists or pinned in separate bundles with the list number on each bundle.

The agent should in making up the returns, first produce a draft for himself and then make out the official return on the prescribed form. To make up the official return itself direct from the various accounts often involves having to make detail corrections which make the form look very unsightly and incompetent.

Declaration by Candidate and Agent

The agent's declaration, made before a Justice of the Peace, must accompany the returns of expenses. The candidate's declaration can be sent in within seven days of the agent's return being transmitted, but it is wisest to send it in at the same time.

Form of declarations as to expenses.

Election in the St. James' [Ward] of the Borough of Manton.

Date of publication of notice of election, April 10th, 1949.

Name of Candidate, Arthur James Bullen.

I solemnly and sincerely declare as follows :—

1. I am the person named above as a candidate at this election [and was my own election agent] or I was at this election the election agent of the person named above as candidate. (Cross out words that do not apply.)

2. I have examined the return of election expenses [about to be] transmitted by my election agent [by me] to the returning officer, of which a copy is now shown to me and marked . . . , and to the best of my knowledge and belief it is a complete and correct return as required by law.

3. To the best of my knowledge and belief, all expenses shown in the return as paid were paid by my election agent [by me], except as otherwise stated in relation to my [the candidate's] personal expenses.

4. I understand that the law does not allow any election expenses not mentioned in this return to be defrayed except in pursuance of a court order.

Signature of declarant:

Signed and declared by the above-named declarant on the
day of _____, before me,

(Signed) JOSEPH WATSON,
Justice of the Peace for Manton.

(NOTE.—Where there has been a change of election agent, suitable variations may be introduced into the declaration as to expenses.)

FOR PARISH ELECTIONS

Claims (Within 14 Days)

Every claim against any person in respect of any expenses incurred by or on behalf of or in respect of a candidate at an election of a parish councillor shall be sent in within 14 days after day of election and if not so sent shall be barred and not paid.

Payments (Within 21 Days)

All expenses incurred shall be paid within 21 days after the day of election, and not otherwise, and any person who makes a payment in contravention of this section shall be guilty of an illegal practice.

Return and Declaration (Within 28 Days)

Within 28 days after the day of election of a councillor every candidate at such election shall send to the Clerk of the Rural District Council who is the R.O., a return of all expenses incurred by such candidate, or his agents, on account of or in respect of the conduct or management of such election, vouched (except in the case of sums under twenty shillings) by bills stating the particulars and receipts, and accompanied by a declaration by the candidate made before a justice in the form set or to the like effect.

The return and declaration must be sent although no expenses have been incurred by the candidate in and about the election. ("Arnold.") They will show the expenses were nil.

DECLARATION OF EXPENSES

Election for the [..... Ward of the] Parish of.....

Date of publication of notice of election.....

Full Name of Candidate.....

I declare as follows:

1. The amount paid by me or on my behalf for my election expenses at the above election was £.....

2. To the best of my knowledge and belief no other election expenses have been paid or incurred by me or by any other person or organisation in connection with my candidature.

3. To the best of my knowledge and belief the accompanying return of expenses is complete and correct as required by law.

4. I understand that the law does not allow any election expenses not mentioned in the return to be defrayed except in pursuance of a court order.

Signature of Candidate.....

See page 40 for form of return).

A Form of Return of Election Expenses for Parish Elections

Date of publication of notice of election.....
 Expenses incurred by and his agents at the election for
 a councillor for the Parish of

PAYMENTS				£	s.	d.
Clerks and Messengers
Printing
Advertising
Stationery and Miscellaneous
Committee Rooms
Meetings

TOTAL

£

Signed.....

Date.....

Combined Rural and Parish Elections

It may well happen that where the rural and parish council elections are being contested on the same day, all candidates will use the same committee rooms, materials, etc. In this case it will be necessary to divide the expenditure over the two elections and then over the respective candidates.

Where the rural and parish council Election Addresses are combined in one it must be remembered the proportionate cost for the R.D. and P.C. candidates must be included in their separate Returns. The person responsible for the publication of the Election Address should, therefore, submit to the respective R.D. election agents and the P.C. candidates an account in respect of the proportionate cost. A formal receipt for that amount must also be given. The same procedure would apply to all such joint ventures.

Penalties on Candidates (For all Elections)

The submission of false returns or failure to make a return and declaration within the stipulated time makes a candidate liable for penalties both of a fine on summary conviction and an embargo on his sitting or voting in Council, unless he has secured from the Courts an authorised excuse to make such return.

Sanction for Payments After Date

The county court for the district in which the election was held, or the High Court, or an election court, may, on application either by a creditor or a candidate, allow any claim to be sent in and any expense to be paid after the time limited by this section, and a return of any sum so paid shall forthwith after payment be sent to the town clerk.

Protection for Creditors

The rights of a creditor who was innocent that a contract was illegal are protected
Relief

The Act provides for a candidate securing relief for failure to make declaration and return in time, etc.

Custody and Inspection of Returns

The return and declaration sent in pursuance of this statute to the clerk shall be kept at his office, and shall at all reasonable times during the two years next after they are received by him be open for inspection by any person on payment of the fee of one shilling, and the said clerk shall, on demand, furnish copies thereof or any part thereof at the price of twopence for every seventy-two words.

After the expiration of the said two years the town clerk may cause the return and declaration to be destroyed, or if the candidate so require return the same to him. (NOTE.—In the case of Parish Returns the period is one year.)

OUTSIDE BODIES INCURRING EXPENSES

(Applies to all Local Elections Except Parish Elections)

Read first the practical alternative on page 42.

The Election Agent must give written authorisation and show the amount in his return, and the Bodies must send in a Return and Declaration of the expense to the R.O. on a prescribed form within 14 days after the date of the result

Nature of the General Provisions

Sec. 63(1), R.P.A., 1949.—No expenses shall, with a view to promoting or procuring the election of a candidate at a parliamentary or local government election, be incurred by any person other than the candidate, his election agent and persons authorised in writing by the election agent on account—

- (a) of holding public meetings or organising any public display; or
- (b) of issuing advertisements, circulars or publications; or
- (c) of otherwise presenting to the electors the candidate or his views or the extent or nature of his backing or disparaging another candidate :

Provided that paragraph (c) of this subsection shall not—

- (i) restrict the publication of any matter relating to the election in a newspaper or other periodical; or
- (ii) apply to any expenses not exceeding in the aggregate the sum of ten shillings which may be incurred by an individual and are not incurred in pursuance of a plan suggested by or concerted with others, or to expenses incurred by any person in travelling or in living away from home or similar personal expenses.

Return and Declaration by Body or Person

(2) that person shall within fourteen days after the date of publication of the result of the election send to the returning officer a return of the amount of those expenses and accompanied by a declaration made by the said person (or in the case of an association or body of persons, by a director, general manager, secretary or other similar officer thereof) verifying the return and giving particulars of the matters for which the expenses were incurred :

Provided that this subsection shall not apply to any person engaged or employed for payment or promise of payment by the candidate or his election agent.

(3) The return and declaration under the foregoing provisions of this section shall be in the prescribed form, and the authority received from the election agent shall be annexed to and deemed to form part of the return (They can be returned after two years not to the candidate, if he or his election agent so require, but to the person sending them if he so require.)

Election Agent's Return of the Expense

(4) The election agent's return respecting election expenses shall deal under a separate heading or sub-heading with any expenses included therein as respects which a return is required to be made by subsection (2) of this section.

(5) Subsection (1) of this section shall not affect the right of any creditor who, when the expense was incurred, was ignorant of its being in contravention of this section.

Contravention is an Offence

(9) Incurring expenses in contravention of the above section or knowingly making a false declaration is a corrupt practice. Failing to send any declaration or return is an illegal practice.

A PRACTICAL ALTERNATIVE

Where a local society or trade union branch wishes to publish any election matter or to circularise its members about the election, an election agent should point out that the rigorous requirements of Section 63 can be avoided if he, the election agent, first gives an official written order (not the "authorisation") for the circulars or bills. The body will give the agent a receipt for the amount and he will give a *pro contra* receipt to them for a donation of the amount. This makes the business a purchase of the material by the agent, and he can then allow it to be distributed. He will then show the amount, including any cost of distribution including envelopes and postages in his Return. The point is if the society does the business wholly itself, it has to conform to Sec. 63, but if the agent takes the responsibility it comes purely under ordinary election procedure.

FORM OF AGENTS' AUTHORISATION

I, the undersigned, being Election Agent for, hereby authorise (name and address of society and secretary) to incur and pay any necessary expense not exceeding £..... on account of:

- (a) Holding a public meeting, viz.,
- (b) Issuing an advertisement or circular, viz., in the interest of the above candidate at this election for the..... (Ward) or (Electoral Area) (date)

Full particulars are to be rendered to me within fourteen days after the election, and to be vouched for by receipts, for inclusion in the return of election expenses.

Signed.....

Date..... Election Agent for.....

A person acting outside of or above and beyond this authority will be guilty of a corrupt practice.

FORM W: RETURN OF EXPENSES BY THEM *Representation of the People Acts*

Election in the.....local government electoral area

Date of publication of notice of election.....

The expenses incurred at the above election in support of.....

....., a candidate thereat, by.....

..... (insert name of person or association or body of persons incurring the expenses) being expenses required by Section 63 of the Representation of the People Act, 1949, to be authorised by the election agent, amounted to £.....

The written authority of the election agent is annexed hereto.

Signature..... Date.....

FORM X: DECLARATION BY THEM *Representation of the People Acts*

Election in the.....local government electoral area

Date of publication of notice of election.....

I hereby declare that:

1. I am the person or a director, general manager, secretary or similar officer of the association or body of persons named as incurring expenses in the accompanying return, marked....., of expenses required by Section 63 of the Representation of the People Act, 1949, to be authorised by an election agent.

2. To the best of my knowledge and belief the said return is complete and correct.

3. The matters for which the expenses referred to in the said return were incurred were as follows:

Signature of Declarant.....

Date..... Office held by Declarant.....

(In the case of an association or body of persons)

ABSENT VOTERS

Sections 24 and 25, R.P.A. 1949

Application for name to be placed on the Absent Voters' List must be received by the R.O. not later than last day for nomination.

Absent Voters

Those unable or likely to be unable to go in person to the polling station for one of the following reasons—

- (b) the general nature of the person's occupation or employment. (R.P.F. 7.).
- (c) by reason either of blindness or any other physical incapacity to go in person to the polling station or, if able to go, to vote unaided. (R.P.F. 7.).
- (d) to go in person from their qualifying address to the polling station without making a journey by air or sea. (R.P.F. 7a.).

under

- (b) there are also provisions for returning officer and staffs, and members of H.M. reserve or auxiliary forces who may be affected. (R.P.F. 9.).

Absent Service Voters

- (a) those registered as Service voters (for proxy votes only, at local elections). (F/Vote/33).

POSTAL VOTES

Ordinary absent voters may vote by post at local government elections, except rural and parish elections, if they apply to be treated as absent voters and furnish an address in the United Kingdom to which a ballot paper may be sent for this purpose.

At an election for which a person's application to be treated as an absent voter is allowed, he shall not be entitled to vote in person.

Holidays or delegacies do not give entitlement for the postal vote.

There is no provision for members of the Forces to vote by post.

NOTES

One form of application is shown on page 44. These forms can be obtained from the Electoral Registration Officer, and must be completed and returned to him not later than the last day for nomination.

It is wise to send the form in a week or two preceding the day of notice of election.

A useful hint is to mark on the outside of the envelope "Absent Voters' List" to avoid any hold-up.

In the case of a person suffering from physical incapacity, the form must be certified by a doctor. "Physical incapacity" may be temporary or permanent.

PROXY VOTES

A person whose employment makes it likely he or she may be abroad or at sea at the period of an election can claim a proxy vote for parliamentary elections, as this is available for local elections.

An absent voter registered at the same qualifying address both as a parliamentary and local government elector, and who has a proxy to vote for him at parliamentary elections in respect of that registration, being based on the general nature of occupation or employment shall be treated as an absent voter at a local election and may vote by proxy and not otherwise.

No person can or shall be specially appointed proxy at local government elections for a civilian voter.

Ordinary proxy votes are allowed at all local elections except rural and parish elections.

Service proxy votes are allowed at all local elections.

NOTES

In the event of a person wishing to have the facility of a proxy vote for local elections, the appropriate course would be to apply early for a parliamentary proxy vote. The granting of this would then give the right of a proxy vote in the local elections.

For instance, Seamen could make such application now, as the general nature of their employment takes them out of the country for recurrent periods.

Form as shown below should be used, and is obtainable from the Electoral Registration Officer for your constituency. In addition form R.P.F. 10 for appointment of proxy must be sent in.

* A person registered as a Service voter may at any local election vote by proxy (but only if he has appointed a proxy for parliamentary elections). This proxy, if himself an A.V., can vote by post.

Except in the case of a peer who is registered as a Service voter, no person shall be specially appointed as proxy for local government elections.

EXAMPLE OF ONE OF THE FORMS IN GENERAL USE

R.P.F. 7

Application to be treated as an absent voter for an indefinite period

(Occupation or physical incapacity)

I, (Surname)
(BLOCK LETTERS)

(Other names).....
am qualified to be registered as an elector for

(Full Postal Address).....

and I apply to be treated as an absent voter at parliamentary and local government elections because I am likely to be unable to go in person to the polling station (or, where (b) or (c) below applies, to vote unaided) :

•(a) owing to the general nature of my { occupation
service } as :
employment }

•(b) by reason of blindness † (in respect of which I have been registered as a blind person by the

..... Council)
 * (c) by reason of physical incapacity (see Note 2).

Signed..... Date.....

Address in the United Kingdom to which ballot paper is to be sent (if different from address given above).

*Delete whichever is inapplicable.

†If the applicant is not so registered, delete the words in brackets and ask a medical practitioner to complete the certificate opposite.

CERTIFICATE

To be completed by a registered medical practitioner where (b) or (c) opposite applies, unless the applicant is registered as a blind person.

I certify that (1) the statement opposite is correct (2) the applicant's inability is likely to continue for _____ months/indefinitely. *

- It is important to indicate which alternative applies.

Signature.....

Address.....

Date.....

NOTES

1.—This application, if allowed, will continue in force until you cancel it or cease to be registered at your present qualifying address or become registered in a different capacity, or until the electoral registration officer gives you notice to the contrary. If the application refers to a qualification as a parliamentary elector, it will be valid for all parliamentary and local government elections at which you are entitled to vote, except rural district and parish council elections, at which there is no postal voting. If it refers to a qualification as a non-resident, it will be valid for all local government elections with the same exception. A separate application should be made for each qualifying address.

2.—Where the ground of the application is blindness or other physical incapacity, the certificate must be completed by a doctor.

3.—If the ground of application is the nature of your occupation, service or employment and you are likely to be at sea or out of the United Kingdom at the time of an election, you may apply on Form R.P.F. 10 to have a proxy appointed to vote for you, except in the case of a qualification as a non-resident.

4.—If you have been appointed proxy for a service voter in the same parliamentary constituency or local government electoral area, you may apply on Form R.P.F. 11 to vote as such by post, but not if you yourself have a proxy appointed for you.

The forms referred to may be obtained from the electoral registration officer.

5.—Any change of the address to which ballot papers are to be sent should be notified promptly to the electoral registration officer; if you wait until an election occurs, you may be too late.

VOTES AT LOCAL ELECTIONS

R.P.A. 1949, Sections 2 to 5, 8, 23 to 25 and 33

Local Government Franchise. A person who is a British subject or a citizen of the Republic of Ireland and of full age and not subject to any legal incapacity can be registered for the vote.

- (1) *On account of residence in the area on the qualifying date (November 20th).*
- (2) *On account of occupying as owner or tenant any rateable land or premises of the yearly value of not less than ten pounds on the qualifying date.*

A person shall not be entitled to be registered more than once in a local government area, namely, a county council, borough, district or parish area as the case may be.

The primary registration is the one for residence.

A person having a residence qualification in an area of one council and a non-resident qualification in an area of another council, can exercise a vote for each such separate council.

AN ELECTOR can vote once only at the ordinary election for a council.

ORDINARY ELECTORS who are listed as absent voters may vote by post in any local election except Rural and Parish elections.

Electors who are registered for the same address for parliamentary and local elections, and for whom there is in force, on account of their occupation, service or employment, an appointment of a parliamentary proxy, may vote by such proxy. Persons who have this parliamentary proxy cannot vote otherwise than by such proxy. The proxy votes are allowed at all local elections.

SERVICE VOTERS may vote by the proxy already appointed by them for parliamentary elections at all local elections.

No proxies can be specially appointed for local elections except in the case of peers who are in the services and are not registered for parliamentary votes. If the proxy is an absent postal voter himself, he may do so by post.

If a service person applies in person at his polling station for a ballot paper, he may so vote personally if a ballot paper has not already been issued for his proxy to vote.

There is no postal vote for service persons in local elections.

VARIOUS LEGAL PROVISIONS

CANDIDATE'S RIGHT TO FREE USE OF SCHOOLROOMS

A candidate at an election (for a council) shall be entitled, for the purpose of holding public meetings in furtherance of his candidature, to the use, without payment and at all reasonable times during the period commencing on the day on which notice of the election is given and ending on the day preceding the day of election, and after reasonable notice, of a suitable room in the premises of a county or voluntary school situate in the electoral area in which he is a candidate or in a parish in part comprised in that electoral area.

Provided that nothing in this section shall authorise the use of a room used as part of a private dwelling-house, nor authorise any interference with the hours during which the schoolhouse is used for educational purposes.

If by reason of the use of a room under this section any expense is incurred by the persons having control over the room, or any damage is done to the school-premises or to furniture, fittings or apparatus therein, the expense or cost of making good such damage shall be defrayed by the person by whom, or on whose behalf, the meeting was convened.

Any question arising under this section as to what is reasonable or suitable shall be determined by the Minister of Education. (Sec. 83, R.P.A. 1949.)

NOTE

This section prohibits authorities to charge rent—but charges for heating, lighting, cleaning, caretaker, etc., would be permissible.

As lists of available county and voluntary schools will be published by the local education authority for use in Parliamentary elections, it is assumed that such lists will be available for local elections.

CLERKS AND MESSENGERS

There are now no legal provisions limiting the number of clerks and messengers that can be employed by a candidate, a return of expenses relating to their employment for payment must be made. This must show the name, address and occupation of any paid persons.

COMMITTEE ROOMS

Sec. 93, R.P.A. 1949

There are now no legal provisions limiting the number of committee rooms that can be hired by a candidate, a return of expenses in respect of each hiring for payment must be made. Judicial opinion in the Oxford Petition case, 1924, indicated that the value of a lent committee room should be included in the Returns if the Agent in any case would have procured a committee room in that vicinity.

Any premises which are licensed for the sale of any intoxicating liquor for consumption on or off the premises or on which refreshment of any kind (whether food or drink) is ordinarily sold for consumption on the premises; or where any intoxicating liquor is supplied to members of a club, society or association other than a permanent political club; shall not for the purpose of promoting or procuring the election of a candidate at a local election *be used as a committee room.*

Provided that nothing in this section shall apply to any part of such premises which is ordinarily let for the purpose of chambers or offices or the holding of public meetings or arbitrations, if such part has a separate entrance, and no direct communication with any part of the premises on which any intoxicating liquor or refreshment is sold or supplied as aforesaid.

The section also applies to the premises of all schools maintained or assisted by a local education authority and all other schools in respect of which grants are made out of moneys provided by parliament to persons responsible for the management of the school.

CONVEYANCE OF ELECTORS

The regulations in relation to limitation of cars in Parliamentary Elections, do not apply to Local Elections. The provisions for Local Elections remain as follows by Sec. 89.

No payment or contract for payment shall for the purpose of promoting or procuring the election of a candidate at a local election be made:

(a) On account of the conveyance of electors to or from the poll whether for the hiring of horses or carriages or for railway fares or otherwise.

No hackney carriage or vehicle or animal usually let out for hire can be used for conveyance of voters.

Nothing in this act shall prevent a carriage, horse or other animal being lent to, or hired, employed or used by an elector or several electors *at their joint cost*, for the purpose of conveying him or them to or from the poll.

Sec. 89 (4), R.P.A., 1949.—No person shall be liable to pay any duty or to take out a licence for any carriage by reason only of such carriage being used without payment or promise of payment for the conveyance of electors to or from the poll at an election. Should such an unlicensed vehicle be used the candidate might formally notify the police of the fact and quote this Section.

It is the "hiring out for the conveyance of passengers" which is the main point in the question of vehicles, the conveyance of merchandise does not apparently affect the issue, so tradesmen, farmers and others may probably lend, without infringement of the statute, vehicles, which they keep for purposes of trade.

NOTE

The lending of cars or vehicles must be *bona fide*. The agent cannot make any payments for them. A candidate or agent can use his car for the conveyance of voters but like any other lender he must pay the expense out of his own pocket.

The use of vehicles, boats, or animals lent gratuitously is not illegal—provided the vehicles or animals are not ordinarily or occasionally let out for hire. All costs for drivers, fodder, petrol, etc., must be paid by the owners or lenders.

In cases of infringements see Notes on Prosecutions (page 58.)

The cost of cars for management use is a legal election expense.

BANDS AND BANNERS

No payment or contract for payment shall for the purpose of promoting or procuring the election of a candidate at a municipal election be made on account of bands of music, torches, flags and banners. Sec. 97, R.P.A., 1949.

IMPRINT ON ELECTION LITERATURE

All election literature whether printed, duplicated or copied by any manifold process other than copied by hand, shall bear on the face thereof the name and address of the printer and publisher thereof. Sec. 95, R.P.A., 1949.

NOTE

The posting or distribution of literature or documents without imprint is illegal.

In the rush of an election imprints are inadvertently left off and cause serious perturbation. One safeguard is at the commencement of the election to give a firm instruction to your printer to put the imprint on all work done for you.

Posters drawn or copied by hand require an imprint.

ADVERTISING

No payment or contract for payment shall . . . be made (Sec. 94, R.P.A., 1949) :

- (b) To an elector on account of the use of any house, land or building, or premises for the exhibition of any address, bill or notice, or on account of the exhibition of any address, bill or notice.

Provided that where it is the ordinary business of an elector as an advertising agent to exhibit for payment bills and advertisements, a payment to or a contract with such elector, if made in the ordinary course of business shall not be deemed to be an illegal practice within the meaning of the section.

(Voluntary exhibition of bills is permissible. Voluntary sandwich men can parade with bills, but any hiring must be through advertising agents.)

CONTROL OF ADVERTISEMENTS

TOWN AND COUNTRY PLANNING ACT, 1947

Window Bills

Are not affected by the control of advertisements. The greatest possible use of this medium of advertising should be made. An effective display of Window Cards creates a great interest amongst the electorate.

Other Election Posters

Can be displayed during election campaign (i.e., after publication of notice of election until polling day) without express consent of the local planning authority.

Consent of the owner, the tenant or occupier of the property or land on which posters are to be displayed must be sought.

Posters posted on other than commercial sites, or those for which express consent has been granted by the local authority, must be removed within 14 days of the declaration of the poll.

It is illegal to flypost and the person or organisation benefiting from posters so flyposted are liable to a fine of £50 for each offence.

CANVASSERS

Payment of canvassers is illegal—Sec. 96, R.P.A., 1949. The agent and the person are liable.

All canvassers should be warned as to their responsibility in law. A canvasser becomes an agent for whose corrupt or illegal acts both he and the candidate are liable.

Certain persons are disqualified, i.e., anyone who has been guilty of corrupt practices and also certain public officials.

NOTICE OF APPOINTMENT OF P. AND C. AGENTS

The following form of notice of appointment may be used, if R.O. does not supply one.

Election of councillors for the
in the

Notice of Election dated
TAKE NOTICE that I, A.B., a candidate at the above election, have appointed R.S., of, to attend at polling station, No., in polling district No., for the purpose of detecting personation (and also to attend as my agent at the counting of the votes).

Dated this.....day of.....19 ..

(Signed) A.B.

To the Returning Officer.

In the case of counting agents, the candidate or election agent can sign a notice of appointment. The election agent must sign in the case of paid polling agents but not otherwise. The above form can be varied to include all the polling and counting agents.

Although the polling and counting agents will have the R.O.'s notice, it is suggested that they are supplied with a signed notice of appointment to confirm identity.

POLL CARDS

Party poll cards are allowed in Local Elections. Unless there is definite misdirection or false information likely to mislead electors, there is usually no legal fault in straightforward wording. It is desirable that the wording should be in the nature of a request or appeal to vote rather than in peremptory phrasing. "Kindly vote thus" is better than "Vote thus"—but there is no contravention of law as such in the use of the latter phrase. It could only be actionable if linked with some direct intimidation of an elector or set of electors.

A mere display of names on lines of a ballot paper would not purport to be a copy.

NOTE

No official poll card will be issued by the returning officer in local elections as in parliamentary elections.

DISTURBANCE AT MEETINGS

Any person acting in a disorderly manner at a public meeting for purposes of preventing the transacting of business is liable to fine or imprisonment.

If the offence is committed on or within three weeks before the day of election at a local government election held in the electoral area with reference to that election he shall be guilty of an illegal practice. Section 84, R.P.A., 1949.

It would seem to be perfectly lawful to eject a disturber from a meeting and if necessary by force.

Payment of stewards to keep order at an election meeting is illegal.

SMALL LEGAL EXPENSES

Sec. 61 (5), R.P.A., 1949.—The foregoing provisions of this section shall not be deemed to apply to any sum disbursed by any person out of his own money for any small expense legally incurred by him if the sum is not repaid to him.

This sub-section is intended to allow an election worker to pay his own fares and incur such personal very incidental expenses as may accommodate him in his individual election task.

USE OF A LOUDSPEAKER OUTSIDE A POLLING STATION

There are no electoral provisions against such usage, but a presiding officer would be bound to take notice of complaints, by voters in the station, of the nuisance of the noise to them in the proceedings. In any case there is no need to be too concerned about opponents wasting a loud-speaker outside a polling station, but it is salutary for opponents to be compelled to leave by order of the constable instructed by the P.O.

CANVASSING OUTSIDE A POLLING STATION

There are no electoral provisions against canvassing or distributing bills outside a polling station, but the risk is in becoming a "nuisance" by impeding voters in their going in and coming out. The canvassing or distribution, in any case, is of little use at a polling station entrance.

BALLOT PAPERS

SECOND SCHEDULE, APPENDIX, R.P.A., 1949

The surname of each candidate shall in all cases be printed by itself in large capitals, and his full particulars shall be set out below it and shall be printed in ordinary type except that small capitals shall be used—

- (a) if his surname is the same as another candidate's, for his other names; and
- (b) if his other names are also the same as the other candidate's, either for his residence or for his description unless each of them is the same as that of another candidate with the same surname and other names.

The prescribed form of the ballot paper eliminates margins.

NOTE

The colour of the Rural District election ballot paper shall be different from that of any of the Parish election ballot papers if the elections are held on the same day.

TENDERED BALLOT PAPERS

These shall be of a different colour from the ordinary ones, though to be printed in the same form as the ordinary ones.

OFFICIAL MARK

Every ballot paper shall be marked with an official mark, which shall be either embossed or perforated.

The official mark shall be kept secret. Seven years shall intervene between the use of the same official mark. (Rule 16, 2nd Schedule, R.P.A., 1949).

RETURNING OFFICER'S LIABILITY

If any person to whom this section applies, or who is for the time being under a duty to discharge as deputy or otherwise any of the functions of such a person, is, without reasonable cause, guilty of any act or omission in breach of his official duty, he shall be liable on summary conviction to a fine not exceeding one hundred pounds. (Sec. 51, R.P.A., 1949).

ALDERMAN ACTING AS RETURNING OFFICER

Where a borough is divided into wards, the Council, at its Annual Meeting, assigns an Alderman to be the Returning Officer for each ward or, if there are insufficient Aldermen, to assign a Councillor for any ward for which no Alderman is available. A Councillor, whether assigned by the Council or by the Mayor, must not be a Councillor or local government elector for the ward in question.

RETURNING OFFICER'S STAFF

If any returning officer or any officer or clerk appointed under the election rules or any partner or clerk of any such person acts as an agent of a candidate in the conduct and management of the election, he shall be guilty of a misdemeanour. Sec. 36, R.P.A., 1949.

ELECTION NOT INVALID FOR CERTAIN FAULTS

No misnomer or inaccurate description of any person or place named in any register of electors, electors' list, nomination paper, ballot paper, voting paper, or notice, shall affect the full operation of that document with respect to that person or place, in any case where the description of the person or place is such as to be commonly understood. Sec. 39(5), R.P.A., 1949.

N.B.—Keep this in mind if an R.O. should offer a remark about an apparent inadequacy in a nomination paper.

Section 37 provides that an election shall not be invalid by reason of breach of official duty or omission of the R.O. or staff if it appears to a tribunal that the election was conducted as to be substantially in accordance with the law and the default did not affect its result.

OFFENCES RE ELECTION PAPERS

If any person fraudulently defaces or so attempts to deface, or fraudulently destroys or so attempts to destroy, any nomination paper, he shall be liable, on summary conviction, to imprisonment for a term not exceeding six months, or to a fine not exceeding twenty pounds, or to both such imprisonment and fine.

Provisions impose penalties for any fraudulent or destructive or interfering actions with respect to ballot papers and ballot boxes. (Sec. 52, R.P.A., 1949.)

NON-ATTENDANCE OF AGENT

Where in these regulations any act or thing is required or authorised to be done in the presence of the agents of the candidates, the non-attendance of any agents or agent at the time and place appointed for the purpose shall not, if the act or thing is otherwise duly done, invalidate the act or thing done. (Rule 26, 2nd Schedule, R.P.A., 1949).

PROHIBITION OF DISCLOSURE OF VOTE

No person who has voted at the election shall, in any legal proceeding to question the election, be required to state for whom he voted. (Rule 17, 2nd Schedule, R.P.A., 1949).

VOTING OFFENCES

Sec. 48, R.P.A., 1949, Sets out certain offences re voting, when legally incapacitated or voting as proxy for a proxy voter who is legally incapacitated, voting more than once or in more than one electoral area, voting as proxy or in person when only entitled to vote by post, etc., as illegal practices.

SLANDER AND LIBEL

Candidates and election agents need to exercise care that no defamation of the character of another candidate occurs in speeches or appears in print. Denunciation and invective against the purely political aspects and record of a public man would not come within the category of slander or libel, but even slight reflection on the personal character or business of a person can bring the writer or speaker sharply within the penalties of the law. Reference should also be made to Section 91 in which it is an illegal practice to publish any false statement of fact in relation to the personal character or conduct of a candidate during an election. This provision was originally enacted to stop last minute defamatory attacks leaving no chance of reply or refutation.

False Statements as to Candidate

Sec. 91, R.P.A., 1949.—Any person who, or any director of any body or association corporate, which before or during a local election shall for the purpose of affecting the return of any candidate thereat, make or publish any false statement of fact in relation to the personal character or conduct of such candidate shall be guilty of an illegal practice unless he can show that he had reasonable grounds for believing and did believe the statement to be true.

INTEREST IN CONTRACT

Shall Not Discuss or Vote

Section 76. (1) L.G.A., 1933. If a member of a local authority has any pecuniary interest, direct or indirect, in any contract or proposed contract or other matter, and is present at a meeting of the local authority at which the contract or other matter is the subject of consideration, he shall, at the meeting, as soon as practicable after the commencement thereof, disclose the fact, and shall not take part in the consideration or discussion of, or vote on any question with respect to, the contract or other matter.

Where Services are Open to all Inhabitants

Provided that this section shall not apply to an interest in a contract or other matter which a member may have as a ratepayer or inhabitant of the area, or as an ordinary consumer of gas, electricity or water, or to an interest in any matter relating to the terms on which the right to participate in any service, including the supply of goods, is offered to the public.

Indirect Pecuniary Interest

Sub-section (2) treats on persons having, *indirectly*, a pecuniary interest, e.g. a person or his nominee being a member of a company or other body; a partner; or employee. But does not apply to membership of, or employment under, any public body, or membership of a company or other body if he has no beneficial interest in any shares or stocks of that company.

Exemption for Certain Shareholders

If total nominal value of shares or stock does not exceed £200 or one hundredth of the total nominal value of the issued share capital of the company or body, whichever is the less, the provisions of above sub-section 2 shall not apply.

(Section 131, L.G.A., 1948, amending Section 76, L.G.A., 1933).

NOTE

The above provisions are complicated and each case needs to be considered on its own merits and judged by the provisions.

Married Persons

(3) In the case of married persons living together the interest of one spouse shall, if known to the other, be deemed for the purposes of this section to be also an interest of that other spouse.

Record of Disclosure of Interest

(4) Provides that a general notice in writing given to the clerk shall be deemed to be a sufficient disclosure of interest, until withdrawn, with relation to consideration of matters from that date.

(5) A record of the notices and disclosures shall be kept in a book open to inspection by members of the Council.

(9) A local authority may by standing orders provide for the exclusion of a member of the authority from a meeting of the authority whilst any contract, proposed contract or other matter in which he has such an interest as aforesaid is under consideration.

Failure to Comply and Penalties

(6) If any person fails to comply with the provisions of sub-section (1) of this section, he shall for each offence be liable on summary conviction to a fine not exceeding fifty pounds, unless he proves that he did not know that a contract, proposed contract, or other matter in which he had a pecuniary interest was the subject of consideration at the meeting.

(7) A prosecution for an offence under this section shall not be instituted except by or on behalf of the Director of Public Prosecutions.

Dispensation by Ministry for Special Cases

(8) The county council, as respects a member of a parish council, and the Minister, as respects a member of any other local authority, may, subject to such conditions as the county council or the Minister, as the case may be, may think fit to impose, remove any disability imposed by this section in any case in which the number of members of the local authority so disabled at any one time would be so great a proportion of the whole as to impede the transaction of business, or in any other case in which it appears to the county council or the Minister, as the case may be, that it is in the interests of the inhabitants of the area that the disability should be removed.

N.B.—A dispensation must be applied for on each occasion. The Council or members concerned can petition the Minister.

Section 95 applies Section 76 to joint committees and sub-committees.

NOTES

Councillors who are tenants of Council houses may be said to have a contract with the Council in regard to the houses they occupy, and a discussion on, say, proposal to put up the rents, might disable them under the terms of the above section. The Minister of Health has pointed out that it does not follow that councillors who are occupying Council houses will have a pecuniary interest in every matter concerning houses that comes before the Council. Whether a disability exists in a particular instance must depend on the circumstances. If a member is in any doubt as to his legal position, his best course is to seek the advice of the Clerk.

Family relationship does not necessarily imply pecuniary interest.

Selling materials to a contractor disables for voting on the contract. So does supplying coals to school trustees whose expenditure was reimbursed by the Council of which the coal merchant was a member. A concealed interest in a contract made colourably in another person's name disables.

OBLIGATIONS ON COUNCILLORS

Local Government Act, 1933

ACCEPTANCE OF OFFICE

Section 61. (1) A person elected to any of the following offices, chairman or mayor, alderman or councillor, shall not, unless he has made a declaration of acceptance of office and the declaration has within two months from the day of the election been delivered to the clerk of the authority, act in the office except for the purpose of taking such a declaration.

(2) If such declaration is not made and delivered to the clerk of the authority within the appointed time, the office of the person elected shall at the expiration of that time become vacant.

(3) The declaration shall be made before either—

(a) two members of the council to which the declarant is elected; or

(b) the clerk of the authority; or

(c) a justice of the peace or magistrate at any place within His Majesty's dominions; or

(d) British Consul, etc.

For Parish Councils

A form of declaration of acceptance will now be provided, it will be sufficient for declaration to be made before one member of the Parish Council who will subscribe the form.

RESIGNATION

Section 62. A person elected to any office under this Act may at any time resign his office by writing signed by him (in this Act referred to as the "notice of resignation") and delivered to the clerk of the authority (or to the chairman of a parish council or to the council or meeting in case of resignation of parish chairman), and his resignation shall take effect upon the receipt of the notice of resignation by the person or body to whom it is required to be delivered.

OFFICE CEASES THROUGH ABSENCE

Section 63. (1) If a member of a local authority fails throughout a period of six consecutive months to attend any meeting of the local authority, he shall, unless the failure was due to some reason approved by the local authority, cease to be a member of the authority:

Provided that—

(a) attendance as a member at a meeting of any committee or sub-committee of the local authority, or at a meeting of any joint committee, joint board or other body to which any of the functions of the local authority have been delegated or transferred, shall be deemed for the purposes of this sub-section to be attendance at a meeting of the local authority;

(b) excepts absence when due to employment under war or emergency conditions.

(2) If the mayor of a borough is continuously absent from the borough, except in case of illness for a period exceeding two months, he shall as from the expiration of that period cease to hold that office.

CASUAL VACANCIES

Local Government Act, 1933

Vacancy Deemed to have Occurred

Section 65. For the purpose of filling a casual vacancy . . . the date on which the vacancy shall be deemed to have occurred shall be, in the case of :—

- (a) NON-ACCEPTANCE OF OFFICE : At the end of two months from the day of his election. (See also Section 61.)
- (b) RESIGNATION : Upon the receipt of the notice of resignation by the clerk or the body as is prescribed. (See Section 62.)
- (c) DEATH : Upon the date of death.
- (d) DISQUALIFICATION BY SURCHARGE OR CONVICTION : Upon expiration of appeal period, or of Court's decision, or finally disposed of. (See Sec. 59 (1) (d) (e). Sec. 229.)
- (e) ELECTION BEING DECLARED VOID : Upon date of report of certificate of the Election Court. (See also M.C.A., Sec. 87 to 103.)
- (f) CEASING TO BE QUALIFIED (Sec. 57) or BECOMING DISQUALIFIED FOR ANY REASON OTHER THAN THOSE MENTIONED IN FOREGOING PARAGRAPH OF THIS SECTION, or CEASING TO BE A MEMBER THROUGH FAILURE TO ATTEND MEETINGS, Sec. 63 (1), or CEASING TO HOLD OFFICE OR MAYOR OF A BOROUGH BY ABSENCE, Sec. 63 (2) : Upon the date on which his office is declared to have been vacated by the High Court or by the Council.
- (g) COUNCILLOR ELECTED ALDERMAN : Date he accepts office.

The above dates do not indicate that a vacancy is declared, they are facts upon which the provisions of the following sections can be put into effect.

Parish Council to Fill Casual Vacancy

Section 67. (6) A casual vacancy among parish councillors shall be filled by the parish council, and the council shall forthwith be convened for the purpose of filling the vacancy.

Declaration of Vacancy (for Certain Cases Only)

Section 64. Where a member of a local authority—

- (a) ceases to be qualified to be a member of the authority; or
- (b) becomes disqualified for being a member of the authority for any reason other than by reason of a surcharge, or of a conviction, or of a breach of any enactment relating to corrupt or illegal practices; or
- (c) ceases to be a member of the authority or to hold the office of mayor of a borough by reason of failure to attend meetings of the local authority or by reason of absence from the borough, as the case may be;

the local authority shall, except in any case in which a declaration has been made by the High Court under this part of this Act, forthwith declare his office to be vacant and signify the vacancy by notice signed by the clerk of the authority and affixed to the offices of the authority.

Election to Fill Vacancy

Section 67. (1) Subject to the provisions of this section, on a casual vacancy occurring in the office of county councillor, councillor of a borough, or district councillor, an election to fill the vacancy shall be held—

(a) in a case in which the Council or the Courts have declared the office to be vacant, within 30 days from the date of the declaration; and

(b) in any other case within 30 days after notice in writing of the vacancy has been given to the clerk of the authority by two local government electors for the county, borough, or district;

and shall be conducted in the same manner as an ordinary election.

In compiling this time-table the 30 days run consecutively from the day after which notice of vacancy has been declared or notified. The procedure—Notice of Election, etc.—is the same as that laid down for ordinary elections (see page 15.)

Sec. 67. (2) Provides that the day of election shall be fixed by the R.O. (county), the mayor (borough), or clerk (district).

There are thus alternative procedures and it is necessary to determine which is to apply in a particular case.

(a) The cases in which the council or courts declare a vacancy are set out in Section 64 on the previous page and appear to be—ceasing to be qualified, under Section 57; becoming disqualified under Section 59, except by reason of surcharge, or conviction and breach of any enactment relating to corrupt or illegal practices; or failure to attend meetings.

(b) The notice in writing of the vacancy to be given to the clerk by the two local government electors would appear to be necessary—before an election can take place—in the following cases :

Non-acceptance of office, resignation, death, councillor becoming alderman; and surcharge, conviction and unseating, if a High Court judgment has not itself declared the seat vacant.

Special Case

Where a casual vacancy occurs within six months before the 9th May (or in case of a county councillor the 9th April) *in the year in which the councillor whose office is vacant would regularly have retired*, an election under this Section shall not be held to fill the vacancy, but the vacancy shall be filled at the next ordinary election. Section 67 (3) L.G.A., 1933, amended by R.P.A., 1948, 6th Schedule.

NOTES

The 6th Schedule of the 1948 Act remains in effect.

In the case of a vacancy where a councillor's term of office runs to a subsequent year a casual election is due to take place.

There is a proviso about vacancies exceeding one-third of members when section will not apply.

Sec. 67 (4).—Provides for person elected with least votes to take first retiral and so on in ascending order of retiral. In case of uncontested elections or doubt the order is to be determined by lot.

Sec. 67 (5) (7) provides that where elections for casual vacancies are combined with the ordinary elections, the persons who are elected by the smallest number of votes are deemed to fill the casual vacancies, in ascending order of retiral, and in case of equality of votes the order shall be determined by lot at the next practicable meeting of the council.

Sec. 68. A person elected under this Act to fill a casual vacancy shall hold office until the date upon which the person in whose place he is elected would regularly have retired, and he shall then retire.

CORRUPT AND ILLEGAL PRACTICES

The offences of corruption are :—

- (1) Bribery, (2) Treating,
- (3) Undue influence, (4) Personation,
- (5) False declaration of election expenses by candidate or agent.
- (6) Contravention of certain provisions re outside bodies requiring authorisation for expenses.

The definitions of corrupt practices are the same as for parliamentary elections.

Illegal practices are :—

Payment for conveyance of electors to or from the poll.

Payment for exhibition of bills by an elector (except a contractor).

Payment of election expenses after date (or paying late claims).

Exceeding maximum expenses allowed.

Voting by, or inducing prohibited persons (to vote).

Knowingly publishing a false statement of the withdrawal of a candidate.

Publishing or printing any election literature without imprint.

Publishing false statement of fact in relation to the personal character of a candidate.

Using or hiring prohibited committee rooms.

Using or hiring prohibited conveyances.

Failure by outside bodies to make declaration or to make false declaration.

Providing money for payment contrary to the provisions of statute in incurring expenses over the maximum.

Providing money for procuring withdrawal of a candidate.

Providing money for bands of music and banners, flags and torches.

Upon the report of an election court a candidate, who has been guilty by himself or his agents of an illegal practice, shall not be capable of being elected to or of holding a corporate office in the said borough during the period for which he was elected to serve or for which if elected he might have served, and if he was elected his election shall be void and he shall be subject to incapacities.

A person guilty of an illegal practice is on summary conviction liable to a fine not exceeding £100; and

is incapable during five years from the date of his conviction of being registered as an elector or voting at any election whether parliamentary or for a public office, held for or within the said borough.

A person guilty of the offence of illegal payment, employment or hiring is on summary conviction liable to a fine not exceeding £100.

Excuse and Exception for Corrupt or Illegal Practices

Statutes provide that if offences (excepting bribery and personation) were committed at an election without the sanction or connivance of a candidate, and that on his behalf all reasonable means for preventing their commission were taken and that the offences were of a trivial, unimportant and limited character, then an election court shall not void the election, nor shall the candidate be subject to incapacity.

Liability of Election Workers

See the section on "Agency" page 7.

PROSECUTIONS

It is provided by the Statutes that the procedure for the prosecution of a corrupt practice or illegal offence committed in reference to a local election shall be the same as in the case of a parliamentary election.

Prosecution for any election offence may be instituted by a private individual in the local magistrates court, or information may be given to the Public Prosecutor, who thereupon may prosecute according to the provisions of the statutes.

Some election offences are punishable on summary conviction whilst others are only punishable on indictment in a higher court.

NOTES

It is very unusual for the Public Prosecutor to take action upon information supplied by individuals in connection with incidental cases of illegal practices or offences. He would advise action being taken in the local magistrates' court by the parties concerned, or in the event of the offence being one for which the offender could apply to the election court for relief he may advise the offender accordingly.

In cases where an illegality is discovered on the part of opponents, the onus is on the complainant, and the best course is to make immediate representation, to the opponent, candidate or agent. Having been warned they cannot plead any inadvertence if they continue the illegality, and they will correct or discontinue it. If the offence takes place on polling day, warn opponents at once, it is futile leaving complaint till after the election.

Where a prosecution is contemplated it is wise to consult a solicitor.

In cases of bribery or corruption these are serious matters, and evidence must be well documented by witnesses—hearsay evidence is quite useless.

COUNTY COURT

The County Court now has concurrently with the High Court, all the powers of the High Court in relation to applications for relief in respect of claims, payments or return and declaration of election expenses and on matters relating to injunctions restraining false statements as to character or conduct of a candidate, or in the matter of the inspection of ballot papers.

NOTE

This is an easement of procedure in cases of inadvertent as against corrupt, defaults over certain election requirements.

RELIEF

Application for relief is a legal process of appeal by a candidate, agent or other person to be excused from the consequences of inadvertent transgression of statutes during an election.

The case must be put into legal hands as soon as possible after the commission or discovery of the fault. Costs may be around £50 or more.

Application can be made to the High Court, or Election Court or a County Court, which in certain of these cases has the status of the other Courts.

Sections 66, 67, 74, 145 of R.P.A., 1949, refer to various cases for which relief may be granted. Section 74 sets out various reasons such as illness, death, misconduct of an agent or clerk, absence, inadvertence or any reasonable cause of a like nature as contributing to the default—though not by reason of any want of good faith on the part of the applicant.

PETITIONS

Whether a Petition is contemplated by a candidate or where a candidate is unexpectedly cited as respondent to some other candidate's Petition there should be immediate consultation with Head Office before any legal action is taken in any way.

A petition to the High Court is a costly process. Security for costs in a county or borough election may be any amount up to £500 as the High Court or a Judge may determine. Sec. 119(2)(b), R.P.A., 1949.

In the case of a district or parish election the amount has been amended to "An amount of £50 or such smaller amount or such larger amount not exceeding £300." U.D. and R.D. Election Rules, 1951, P.C.E.R., 1952.

By Section 114 a petition questioning an election under the Local Government Act shall be presented within 21 days after the day on which the election was held, but there are other provisions of the section relating to special cases of corrupt practice and illegal practices where the period is twenty-eight days after the payment or acts, and in certain cases of illegal practices within fourteen days of the receiving by the returning officer of the election returns. The section must be consulted for details.

ELECTIVE AUDITORS FOR BOROUGHES

L.G.A., 1933, and R.P.A., 1949

Sec. 237 (1).—There shall be three borough auditors, two elected by the L.G. voters called elective auditors, and one appointed by the mayor called mayor's auditor.

The mayor's auditor must be a member of the council, and his appointment shall be made on the ordinary day of election of the elective auditors.

The term of office of each auditor shall be one year.

QUALIFICATION. Sec. 237 (2).—An elective auditor must be qualified to be a councillor, but may not be a member of the council or an officer of the council.

ELECTION. Sec. 238 (1).—The ordinary day of election of elective auditors shall be March 1st or such other day as the council (with the approval of the Home Secretary) may appoint.

If March 1st falls on a Sunday the election will be held on Monday.

An elector shall not vote for more than one person to be elective auditor.*

Elections of elective auditors shall be held at the town hall or some other convenient place appointed by the mayor.

There can thus be only one polling station for the whole borough.

CASUAL VACANCIES.—In the case of the Mayor's auditor the vacancy shall be filled within 10 days. Those elected by local government electors conform to the procedure laid down for the election of councillors.

POSTAL AND PROXY VOTING.—This is not allowed in the election of elective auditors.

Subject to Sec. 238, all the provisions of Part I, R.P.A., 1949, with respect to the nomination and election of councillors for a borough not having wards shall apply to the nomination and election of elective auditors.

The nomination paper will be therefore subscribed by two local government electors of the borough as proposer and seconder and by eight local government electors as assentors. The notice of election will be the same as for ordinary elections.

*This is a provision to secure representation for the minority. In ordinary cases it would rarely happen that one party could carry both its candidates.

NO EXPENSE ALLOWED FOR CONDUCT OF ELECTION.—Sec. 59, R.P.A., 1949 excludes elections other than for a councillor from Part II of the Act relating to election agent and expenses for the conduct and management of an election.

A candidate for the auditorship may incur no expense, not even in sending out post cards asking for support (*ex parte* Gale, 1905), or in issuing cards, an address or an advertisement (*re* Droitwich Auditors' Election, *ex parte* Tolley, 1907).

A Labour Party could circularise officers of its wards, sections and affiliated bodies informing them as to its own candidate, time and place of election and the date.

DECLARATION AND RETURN.—It would seem that the usual declaration and return is to be sent in even though no expense is allowed. ("Arnold.")

N.B.—A declaration includes, of course, a statement that no money has been spent or will be spent by anyone other than accounted for; in this case nothing.

REMUNERATION OF AUDITORS.—The borough auditors are not entitled to fees for the auditing of the municipal accounts, but shall with respect to the auditing of the Health accounts of the council be paid such reasonable remuneration not being less than two guineas for every day in which they are employed in such audit—as the council from time to time appoint. (Public Health Acts, 1875 to 1932.)

ACCEPTANCE OF OFFICE. RESIGNATION.—Same as for a Councillor. The day of election shall be fixed by the mayor.

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